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October 7, 2009

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BY EMAIL AND HAND DELIVERY

Judi Birkitt, Senior Planner
Land Use Review
County of Loudoun
Department of Planning
One Harrison Street, Third Floor
Leesburg, Virginia 20175

Kincora
ZMAP 2008-0021

Dear Judi:

As we have discussed, we have prepared one comprehensive resubmission of the Kincora rezoning application materials in response to the referral comment memos we received on September 10 and September 28 and the meetings we had with you and various County Staff representatives in August and September. These revised documents should resolve the discrepancies identified by Staff, clarify the Applicant's commitments and enable us to narrow the focus of the discussion of this case with the Planning Commission to the key policy considerations. With a quick review of the enclosed documents, you will note that we addressed a number of significant items such as (i) incorporating all of the approved SPEX 2008-0054 environmental (Proffers II.C. through II.J. and Exhibit F) and TDM (Proffer III.J.) commitments, (ii) adding numerous new land bay design commitments in response to Community Planning comments (Proffer V.L.), and prohibiting freestanding retail in Land Bays Q and N (Proffer V.L.5.).

We are happy to meet with you and others to discuss any of these materials prior to the Planning Commission hearing if that will facilitate your consideration and preparation for the hearing.

The resubmission package includes the following:

1. A blacklined copy of a revised "Proffer Statement," dated October 5, 2009, reflecting all revisions to the previous July 23, 2009 version;



Judi Birkitt, Senior Planner
October 7, 2009
Page 2

2. A revised "Concept Development Plan" ("CDP"), dated October 2, 2009, delivered under separate cover by Urban, Ltd.;
3. Revised "Statement of Justification," dated October 5, 2009;
4. A "Response to Comments for Traffic Impact Study - ZMAP 2008-0021, Kincora Village Center Second Referral," dated October 5, 2009, delivered under separate cover by Gorove/Slade Associates, Inc.;
5. "Capital Facilities Worksheet," dated October 5, 2009; and
6. "Revisions Keyed to Agency Referral Comments," dated October 7, 2009. We hope this document will help the various referral agencies to quickly locate the revisions made in response to their respective comments.

We greatly appreciate your continued review and guidance on this application. Please circulate these resubmission documents to your review team members, and let them know we will make ourselves available at their convenience to discuss any comments or questions they may have.

With best regards,

A handwritten signature in black ink, appearing to read "John", written over a horizontal line.

John C. McGranahan, Jr.

Enclosures

cc: The Honorable Lori Waters
The Honorable Robert J. Klancher
Mr. Michael W. Scott
Mr. Daniel P. Coughlan



MEMORANDUM

TO: Judi Birkitt Loudoun County
George Phillips Loudoun County

FROM: Christopher M. Tacinelli
Tushar A. Awar

DATE: October 5, 2009

**SUBJECT: Response to Comments for Traffic Impact Study - ZMAP 2008-0021
Kincora Village Center Second Referral**

This document addresses the comments received for the traffic impact study, ZMAP 2008-0021, Kincora Village Center Second Referral, Loudoun County, Virginia. Each comment is presented in *italics* with the response in **bold** immediately following.

COMMENTS:

- 1) ***Initial Staff Comment (First Referral April 27, 2009):** The applicant has provided a traffic study in support of the rezoning application that seems to combine trip generation resulting from both the rezoning land uses as well as the special exception uses. OTS notes that approval of the special exception, a separate application is not guaranteed and therefore the trip generation presented thus represents a worst-case scenario. Has OTS interpreted this assumption correctly? Also, there appears to be a discrepancy between this study and the special exception only traffic study with respect to the magnitude of proposed uses (office park) for the special exception. Please clarify.*

***Applicant's Response (June 10, 2009):** The trip generation presented in the study does present a worst-case scenario. A meeting was held with Loudoun County and VDOT staff on April 9, 2009 to address the comments and questions raised by OTS staff regarding the special exception application. The revised impact study dated April 27, 2009 shows a separate analysis for the Rezoning application and for the Special Exception application. Although the proposed Rezoning application incorporates the Special Exception uses, in order to differentiate between the two applications, the analysis for the two applications has been conducted separately.*

Issue Status: *The study accurately reflects the approved uses, including the office park, for the Special Exception. The Rezoning application does incorporate the Special Exception uses and since the Special Exception was approved (See Attachment 3), this issue has been adequately addressed. However, the revised traffic study doesn't clearly show the trip generation broken out between the approved Kincora Special Exception (SPEX-2008-0054) and the proposed Kincora rezoning (ZMAP 2008-0021) a separate table is recommended to clearly show the trip generation for each. This can be in the form of an addendum to the April 27, 2009 study.*

Comment acknowledged. A separate trip generation broken out between the approved Kincora Special Exception (SPEX 2008-0054) and the proposed Kincora rezoning (ZMAP 2008-0021) is attached at the back of this memorandum.

- 2) **Initial Staff Comment (First Referral April 27, 2009):** *The applicant has made numerous assumptions regarding recommended/anticipated improvements to be in place in the various phases of the project. OTS believes that many of these assumptions are unrealistic given OTS' understanding of funding levels and proffered/planned improvements. OTS requests a meeting with the applicant's traffic consultant to discuss the matter before providing further comment on the analysis results.*

Applicant's Response (June 10, 2009): *A meeting was held on May 27, 2009 with OTS staff to discuss the comments received on the rezoning application. Based on the discussion held at the meeting, there was some confusion regarding the planned roadway/transportation improvements stated in the report, which were based on the Countywide Transportation Plan. However, the analysis presented in the report did not take into account all of the planned improvements. The improvements necessary to improve or achieve the acceptable levels-of-service were the only ones included in the analysis. However, per the County staff's request, a supplemental analysis was requested without assuming planned roadway improvements as shown on the CTP for Route 28, Route 7 and Waxpool Road. Hence, intersections along Route 28, Route 7 and Waxpool Road were reanalyzed without assuming the planned improvements in place for the existing conditions. For the future conditions analysis, however, the planned interchanges were assumed to be in place, which was agreed to at the meeting. The supplemental analysis presented along with this memo shows the details of the capacity analysis results.*

Issue Status: *This is understood and confirmed by OTS. However, OTS continues to believe that some of the assumed future conditions, including the assumed 8 lanes on Route 7, Route 28 and Waxpool Road improvements in the future scenarios are optimistic in that they are not currently funded. OTS recommends that the applicant participate in these improvements. This will be addressed in subsequent comments.*

Please review responses to Comments # 14 and 15.

- 3) **Initial Staff Comment (First Referral April 27, 2009):** *The applicant has provided trip generation figures for each phase of the project as part of the traffic study. In each case, the study indicates that the figures represent new trips generated by the proposed development program for that point in time. OTS believes that the trip generation shown for each phase is actually cumulative (i.e. phase II = phase I + phase II). Is this correct? Please clarify.*

Applicant's Response (June 10, 2009): *That is correct. The trip generation for Phase II is cumulative of Phase I and II and the trip generation for Phase III is cumulative of Phase I, II and III.*

Issue Status: *In the review of the applicant's revised traffic study, OTS staff has confirmed this. The issue has been adequately addressed.*

Resolution appreciated.

- 4) **Initial Staff Comment (First Referral April 27, 2009):** *The interchange of Route 28/Nokes Boulevard is under construction to be a full cloverleaf interchange. The interchange of Route 28/Nokes Blvd will open in phases beginning May 2009 with full operation expected in September 2009. If not provided through the applicant's special exception application, the applicant should dedicate adequate right-of-way at no cost for the purpose of construction of the interchange and a section of Gloucester Parkway that is also being constructed from Route 28 to Pacific Boulevard as a part of the Route 28/Nokes Boulevard interchange project.*

Applicant's Response (June 10, 2009): *The right-of-way for the interchange has already been acquired by VDOT and the applicant no longer owns the area for this right-of-way, and that area is not included in the SPEX area.*

Issue Status: *The Kincora Special Exception has already been approved. However, there is a pending court case between the applicant and VDOT regarding the value of the property acquired by VDOT for the interchange. OTS staff notes that the interchange construction is now complete. Issue adequately addressed.*

Resolution appreciated.

- 5) **Initial Staff Comment (First Referral April 27, 2009):** *The traffic study assumes a 10% reduction for transit service. The applicant will be responsible for providing transit facilities equal to the 10% anticipated traffic reduction; in other words, the applicant should show how the traffic impact would be reduced on the adjacent roads. In terms of transit, what mitigation measures will this applicant provide to ensure the 10% reduction in trips in the vicinity of the site? Please describe.*

Applicant's Response (June 10, 2009): *An interim Travel Demand Management program (TDM) will be implemented to reduce the number of vehicle trips. This includes the use of mass transit, ride-sharing and/or other strategies. A 10% TDM reduction on proposed office, hotel and residential trips. Of note, no TDM reduction was applied to the retail trips or baseball stadium. The TDM reduction was also applied to the net trips (excluding external trips). The US census data for the Broad Run District and adjacent districts was used to compile the percentage breakdown. The details of the Census data are presented in the Appendix section. The components of the TDM program, which include Carpooling/Vanpool/Ridesharing, Telework, Shuttle Bus Connections and Flex Work Schedule was assumed to reduce the proposed site traffic by 571 a.m. peak hour, 591 p.m. peak hour, and 152 Saturday peak hour vehicle trips.*

Issue Status: *OTS requests that the applicant clarify how these reductions have been coordinated with Table 13: Trip Generation (Phase III- 2025) on pages 133-134 of the applicant's revised study. In addition, the applicant's proposed draft proffers (pages 25-28) relating to transit contributions and TDM program, including their perceived effectiveness in reducing single-occupant vehicle trips, will need review and comment by the OTS staff. As of this writing, a decision has not been made as to the validity of the proposed 10% TDM reduction by the applicant. Further review and discussion is needed.*

The TDM program for the proposed Rezoning application is based upon the TDM recommendations of the DRAFT version of the CTP and will duplicate the approved TDM program that will be implemented with the Kincora SPEX application. The applicant is willing to meet with OTS staff to discuss this further.

- 6) **Initial Staff Comment (First Referral April 27, 2009):** *The applicant has included trip reductions for internal capture. Please provide appropriate justification/documentation for these reductions. The internal capture reductions should be confirmed with VDOT.*

Applicant Response (June 10, 2009): *The 5% internal capture reduction was agreed and accepted by VDOT and County staff at the scoping meeting. The Chapter 527 guidelines also stipulate a 15% internal capture reduction for residential with a mix of non-residential components.*

Issue Status: *The question is, why 15% was applied to other non-residential uses on Table 13, pages 133-134, of the revised traffic study? The Chapter guidelines recommend using the smaller of 15% of residential or non-residential trips generated. Please clarify.*

The trip generation in the traffic study has taken into account the smaller of 15% of residential or non-residential trips generated. In this case, the residential trips were smaller than the non-residential trips; hence 15% of the residential trips were deducted from the trips generated by the residential uses and non-residential uses. VDOT has agreed with this methodology. The Chapter 527 submission has been

accepted by VDOT, which upholds the calculations to be accurate and adhering to the Chapter 527 guidelines.

- 7) **Initial Staff Comment (First Referral April 27, 2009):** *The traffic impact study assumes 25% - 40% as pass-by trip reductions for the proposed development in 2015. No pass-by trip reduction should be proposed for trips on Pacific Boulevard as long as Pacific Boulevard is not connected to Russell Branch. Even if a trip reduction were allowed on Pacific Boulevard, it would not apply to ingress or egress volumes at the site entrances. The assumption of pass-by reduction should be confirmed with VDOT. In a meeting with the applicant dated April 4, 2009, the applicant indicated that the 25% pass-by trip reduction was eliminated during the Phase 1 for the SPEX. The applicant may need to clarify that in the addendum taking in consideration that 25% pass-by reduction is a high reduction number even after the connection of Pacific Boulevard.*

Applicant's Response (June 10, 2009): *The 25% pass by reduction was agreed to and accepted by VDOT and County staff at the scoping meeting. The Chapter 527 guidelines also stipulate a 25% pass by reduction for retail uses. Although without the Pacific Boulevard connection to Russell Branch Parkway there will be no regional or existing traffic along the proposed section of Pacific Boulevard, the pass-by trips will be more of 'diverted trips' from Route 28. Hence, no trip reduction was applied to ingress or egress volumes at the site entrances. The total site traffic entering and leaving the entrances includes the pass-by trips.*

Issues Summary: *OTS requests that the applicant clarify why the 25% pass-by reduction is shown in trip generation Table 3, for Phase 1 (year 2011) on pages 43-44 of the applicant's traffic study. Also, the proposed 40% pass-by reduction for drive-thru banks exceeds the 25% allowed under Chapter 527 and has not been documented. Please clarify.*

As mentioned in the previous response, the trip generation reductions were agreed to and accepted by VDOT and County staff at the scoping meeting. The Chapter 527 guidelines, for pass-by reductions, state:

“ Unless otherwise approved by VDOT, the following pass-by trip reductions may be used:

- 1. Shopping Center – 25% of trips generated may be considered pass-by***
- 2. Convenience stores, service stations, fast food restaurants, and similar land uses – 40% of trips generated may be considered pass-by”***

The drive-thru bank, as discussed at the scoping meeting, falls under the similar land uses described in the Chapter 527 guidelines. Hence, a 40% pass-by reduction was applied to the drive-thru bank. As mentioned earlier, the Chapter 527 submission has been accepted by VDOT, which upholds the calculations to be accurate and adhering to the Chapter 527 guidelines.

- 8) **Initial Staff Comment (First Referral April 27, 2009):** *Given the size of the proposed development, a significant contribution towards regional transit facilities is anticipated. Further discussion with the applicant with respect to the nature of the contribution is necessary.*

Applicant's Response (June 10, 2009): *Comment acknowledged. A meeting has been scheduled with County transit staff.*

Issues Status: *This meeting has already occurred and OTS staff has set forth a series of recommendations, which are outlined in comment #19.*

Please review response to Comment # 19.

- 9) **Initial staff Comment (First Referral April 27, 2009):** *The Loudoun County Bicycle and Pedestrian Mobility Master Plan adopted October 20, 2003 and the CTP adopted on July 23, 2001 include policies for Pedestrian and Bicycle Facilities. The Loudoun County Bike and Pedestrian Mobility Master Plan calls for the construction of a multi-purpose trail along Pacific Blvd and Gloucester Parkway. The applicant should construct these trails and may be required to dedicate additional ROW in order to do so. In order for VDOT to maintain a trail, the trail must be built within the public right-of-way; otherwise, it is the responsibility of the applicant to maintain the trail. To ensure the safety of bicyclists and motorists all bicycle facilities must be designed according to AASHTO standards. These standards are documented in A Guide for the Development of Bicycle Facilities, AASHTO, 1999, and may be obtained through AASHTO's website www.aashto.org. Per these standards, multi-use trails should be constructed with a 10-foot paved travel-way with 2-foot graded shoulders on both sides of the trail.*

Applicant's Response (June 10, 2009): *Comment acknowledged.*

Issues Status: *The applicant has provided for trails in the draft proffer statement. Please clarify that the proposed trails are to be within the public (VDOT) right-of-way. In addition, these trails need to connect with existing trails or be set up to connect with planned future trails. Please clarify.*

The zoning plan and proffers address the location of trails that will be located within the public ROW for Pacific Boulevard and Gloucester Parkway. As Pacific Boulevard and Gloucester Parkway are constructed by the Applicant across Broad Run, they will be connected to existing trails, or will be constructed with a terminus allowing others to connect where existing trails do not exist at the connection points for Pacific Boulevard and Gloucester Parkway.

- 10) **Initial Staff Comment (First Referral April 27, 2009):** *The applicant should provide a link level of service and queuing analysis for the proposed typical sections along the frontage of Pacific Boulevard.*

Applicant's Response (June 10, 2009): Comment acknowledged. The results of the queuing analysis and link LOS analysis for the proposed typical sections along the frontage of Pacific Boulevard for the years 2011, 2015 and 2025 are presented in Tables 1-6 in the response memo. The results are expressed in terms of 50th percentile and 95th percentile queue length (feet).

Issues Status: The issue has been adequately addressed.

Resolution appreciated.

- 11) **Initial Staff Comment (First Referral April 27, 2009):** The site plan shows that most of the internal roads are private roads; therefore, they should comply with the Loudoun County Facility Standards Manual. The public roads should be compatible with VDOT standards.

Applicant's Response (June 10, 2009): Comment acknowledged.

Issue Status: The applicant has noted this in the in the draft proffers. This issue has been adequately addressed.

Resolution appreciated.

- 12) **Initial Staff Comment (First Referral April 27, 2009):** The applicant should construct sidewalks on both sides of the internal roads. The Owner's Association (OA) will maintain all sidewalks and trails, other than those located on public ROW.

Applicant's Response (June 10, 2009): Comment acknowledged. Please refer to the revised Special Exception plat.

Issues Status: It is unclear, however, how this is being handled with this rezoning. The draft proffers discuss the HOA responsibilities under the VII. Owners Association paragraph on pages 33-34 which appear to cover private trails and sidewalks. Please clarify.

The proffers commit the HOA to provide maintenance for trails and sidewalks located outside of the Public ROW.

- 13) **Initial Staff Comment (First Referral April 27, 2009):** OTS will provide a review of the draft proffers once we have had a chance to evaluate the revised traffic analysis.

Applicant's Response (June 10, 2009): Comment acknowledged.

Issue Status: *OTS Staff has reviewed the submitted draft proffers (dated July 23, 2009) and comments are incorporated below.*

Please see response to comments # 16, 17, and 18

NEW TRANSPORTATION COMMENTS:

14) The applicant's traffic study includes an extensive review of the surrounding road network. It outlines a number of intersections which are operating below LOS D and includes recommendations for improvement in conjunction with each development phase. The issue is, however, that the applicant's draft proffers do not address transportation improvements to the various off-site intersections. The applicant needs to provide these improvements to the various intersections as laid out in the study. The study has specific recommendations (Attachment 15), as well as with each phase, which need to be addressed in the proffers. For example, the study recommends that the Waxpool Road/Pacific Boulevard intersection include signal timing/cycle length adjustments, the addition of additional northbound and southbound left-turn bays and the addition of a 4th eastbound through lane. Yet the draft proffers are silent as to funding or construction of these needed improvements. The applicant needs to develop a phasing plan with specific improvements that address failing intersections and road widening in the general vicinity of the site. In addition, the phasing thresholds in the draft proffers don't match with the phasing with the traffic study. The specific traffic impacts of the phased development in the proposed draft proffers need to be clarified.

The Applicant through the proposed development proffers has committed to the construction of the following regional roads in the vicinity of the proposed development:

a. Pacific Boulevard:

- Additional 2-lane section from Severn Way to Nokes Boulevard
- 4-lane divided section with ten foot wide bicycle trail from Nokes Boulevard to Russell Branch Parkway
- Includes construction of the bridge required to cross Broad Run with such 4-lane section and a ten foot wide bicycle trail
- Approximate cost associated with construction of the bridge = \$12,000,000

b. Gloucester Parkway:

- 4-lane section with ten foot wide bicycle trail from the planned terminus of Route 28/Gloucester Parkway interchange to Loudoun County Parkway
- Includes construction of the bridge required to cross Broad Run with such 4-lane section and a ten foot wide bicycle trail
- Approximate cost associated with construction of the bridge = \$32,000,000

The roadway links mentioned above are shown on the Countywide Transportation Plan (CTP) and are critical sections/links required in eastern Loudoun in order to provide alternative parallel routes to Waxpool Road, Route 7 and Route 28. The traffic study shows that the additional capacity that will be generated by constructing the Pacific Boulevard and Gloucester Parkway links will be used by site generated as well as regional traffic in the area. Figure 1 displays the additional capacity that will be generated by the construction of these roadway links and surplus capacity that will be available, which will be mostly utilized by regional traffic in the area.

As is the case with standard travel demand forecasting and trip distribution models, in areas where roadway links are operating at optimal capacity, construction or addition of parallel links to existing network helps alleviate the traffic from the existing roadway links. In this case, the proposed development will generate traffic that will primarily use the two roadway links (Gloucester Parkway and Pacific Boulevard), and will to some extent trickle site traffic on to the existing regional roads such as Route 7, Route 28 and Waxpool Road. However, the additional or surplus capacity that will be generated by constructing the two critical links (Gloucester Parkway and Pacific Boulevard) will be far greater than the volume added to the regional roads such as Route 7, Route 28 and Waxpool Road.

In addition, the cost associated with constructing the bridge sections for both the roadway links to cross Broad Run (Pacific Boulevard and Gloucester Parkway) is approximately \$44,000,000 (Design and Construction). Based on the Fair Share calculations presented in the traffic study, approximately 40% of the traffic utilizing the Pacific Boulevard connection and approximately 60% of the traffic utilizing the Gloucester Parkway connection will be regional traffic. To be conservative, even if only the Gloucester Parkway connection is accounted for regional improvement contribution, the regional contribution just based on the construction of Gloucester Parkway equates to approximately $\$32,000,000 * 60\% = \$19,000,000$

Hence, with the construction of regional roadway links as part of the proposed development, the roadway capacity generated exceeds the volume of traffic generated by the proposed development plus regional traffic utilizing these roadway links. Hence, the utilization of the proposed roadway links by regional traffic plus the availability of surplus capacity, more than mitigates or negates the minor off-site impacts from the trips generated by the proposed development.

15) *The applicant's traffic study notes, on page xi, that Route 7 and Route 28 will require widening to 8 lanes in the vicinity of the site. In addition, the study also notes that Waxpool Road and Loudoun County Parkway will require major lane improvements. Please note that there are no public funds to provide these needed future widenings. The applicant's draft transportation proffers do not address these improvements even though the proposed development, even when allowing for all of the proposed reductions as well as the approved portion of Kincora under SPEX 2008-0054, the proposed development will generate approximately 5,200 a.m. peak hour, 6,600 p.m. peak hour and 62,000 daily vehicle trips. The proposed development will heavily impact the proposed road network. The applicant needs to make significant contributions and construction to the surrounding road network including Route 7, Route 28, Waxpool Road and Loudoun County Parkway to offset the site generated traffic impacts. This would also include widening the two-lane segment of Pacific Boulevard between Nokes Boulevard and Severn Way and the two-lane segment of Loudoun County Parkway in the vicinity of the Redskins Park Drive and Gloucester Parkway.*

As presented in the response to comment # 14, the applicant has committed to the construction of two major roadway links identified on the CTP – Pacific Boulevard connection from Severn Way to Russell Branch Parkway and Gloucester Parkway from Route 28/Nokes Boulevard interchange terminus to Loudoun County Parkway. The cost associated with construction of these roadway links and the percentage of fair share site traffic utilizing these links shows that the proposed improvements will provide mitigation measures in excess of that necessary to accommodate the impacts from the proposed development.

The Applicant has committed to the construction or widening of the two lane segment of Pacific Boulevard between Nokes Boulevard and Severn Way. Please refer to the draft proffers dated October 5, 2009.

As mentioned in response to comment # 15, by constructing Pacific Boulevard section from Severn Way to Russell Branch Parkway, a much needed parallel north-south road to Route 28 and Loudoun County Parkway will be in place. This north-south link will serve site generated and regional traffic between Route 7 and Waxpool Road. Hence, by constructing this critical regional roadway link, the applicant has accounted for any other off site impacts from trips generated by the proposed development. The traffic study shows that the widening of the Loudoun County Parkway section in the vicinity of Redskins Park Drive and Gloucester Parkway is required solely due to background/regional traffic and is not attributed to site generated traffic. By constructing Pacific Boulevard as a four-lane roadway parallel to Loudoun County Parkway and Route 28, the applicant has in fact provided another avenue for regional traffic traversing in the north south direction.

16) *In the event the Board of Supervisors does not create a community development authority (CDA), the applicant proposes to provide transportation improvements in accordance with phased development in the draft proffers. The applicant's transportation proffers focus primarily on the internal development of Pacific Boulevard, the extension of Pacific Boulevard north to connect with Russell Branch Parkway and the extension of Gloucester Parkway west from the site to Loudoun County Parkway. The connection of Pacific Boulevard north to Russell Branch Parkway is proposed to come relatively late in the proposed development phasing. The applicant's draft proffers, in III Transportation D 5 on page 21, indicate that Pacific Boulevard will not be connected off-site to the north to Russell Branch Parkway until zoning permits are issued for 1,700,001 square feet of non-residential uses, the 501st hotel room or the 1,069th residential unit. This means that up to 1,700,000 square feet of non-residential, 500 hotel rooms and 1,068 residential units could be constructed on-site without any connection of Pacific Boulevard to the north or Gloucester Parkway to the west. Assuming the townhouse/condo, hotel and office park (and not the higher retail) trip rates for the above land use totals from the applicant's traffic study, this level of proposed development would generate over 31,000 daily vehicle trips and continue to rely on the existing Route 28/Nokes Boulevard interchange as well as the failing Waxpool Road/Pacific Boulevard intersection to the south and other failing intersections in the vicinity. This is not acceptable. It is recommended that the applicant connect Pacific Boulevard north to Russell Branch Parkway with access west to Loudoun County Parkway much earlier in the development process. This is because many of the intersections adjacent to the site are shown in the traffic study to operate at inadequate levels-of-service currently and in the future. It is recommended that the applicant tie the off-site extension of Pacific Boulevard to an earlier development threshold. For example, the Waxpool Road/Pacific Boulevard and Waxpool Road/Loudoun County Parkway intersections are failing now and any additional site traffic will simply exacerbate the delays. At the same time, OTS recognizes that the cost of constructing this improvement will require a certain development threshold. However, OTS recommends a significantly lower maximum development threshold prior to the completion of the Pacific Boulevard connection to Russell Branch Parkway. Further discussion is needed.*

The traffic study shows that the proposed transportation roadway phasing is capable of handling the proposed phased development program. As acknowledged by the reviewer, the cost of constructing the Pacific Boulevard link and bridge connection is approximately \$12,000,000, which will require the stipulated development threshold identified in the proffer conditions. In addition, as noted by the Applicant in the proffer conditions, in the event the Board of Supervisors creates for the Property a community development authority (CDA), the Applicant has committed to construct Gloucester Parkway and Pacific Boulevard connections within three (3) years of the date the CDA is created by the Board.

Further discussion is required (Regarding timing of Pacific Blvd. connection).

- 17) *Similar to Comment 16 above, in the absence of a CDA, the applicant includes phasing in the draft proffers for the proposed connection of Gloucester Parkway from Route 28 to Loudoun County Parkway. It is recommended that this connection occur much earlier in the development phasing than proposed by the applicant. The applicant's draft proffers call for the extension of Gloucester Parkway prior to the issuance of 2,400,001 square feet of non-residential uses. Assuming this proposed development is 100% office park and not the higher retail traffic generators, this would add over 7,700 daily vehicle trips over and above the traffic (approximately 31,000 daily vehicle trips) noted in comment 16. It is recommended that this improvement be in place prior to the completion of the Phase I (year 2011) development. At the same time, OTS recognizes that the cost of constructing Gloucester Parkway between Route 28 and the Loudoun County Parkway will require a certain development threshold. However, OTS recommends a significantly lower maximum development threshold prior to the completion of the Gloucester Parkway to Loudoun County Parkway. Further discussion is needed.*

The traffic study shows that the proposed transportation roadway phasing is capable of handling the proposed phased development program. As acknowledged by the reviewer, the cost of constructing the Gloucester Parkway link and bridge connection is approximately \$32,000,000, which will require the stipulated development threshold identified in the proffer conditions. In addition, as noted by the Applicant in the proffer conditions, in the event the Board of Supervisors creates for the Property a community development authority (CDA), the Applicant has committed to construct Gloucester Parkway and Pacific Boulevard connections within three (3) years of the date the CDA is created by the Board.

Further discussion is required (Regarding timing of Gloucester Pkwy. connection)

- 18) *The applicant's traffic study recommends that the Waxpool Road/Loudoun County Parkway intersection will need to be converted into a grade separated interchange. The applicant's traffic study indicates that over 25% of the site traffic would traverse through this intersection. Therefore, the applicant's draft proffers need to address amelioration including a significant contribution including an interchange study. Please note that this interchange is not included in the current CTP. This potential improvement needs to be discussed as part of the ongoing CTP update for possible inclusion.*

The total site generated traffic at the intersection of Waxpool Road/Loudoun County Parkway for the future conditions is approximately 15%. However, as shown in the traffic study, 10% of the existing traffic travelling southbound on Loudoun County Parkway and turning left to travel eastbound on Waxpool Road was rerouted to use the proposed Gloucester Parkway link. In addition, similarly, trips generated by background developments in the vicinity of Loudoun County Parkway shown in Figure 36 of the Traffic Impact Study, were rerouted to use the proposed

Gloucester Parkway link. The additional volume imposed from the proposed development on Route 7 or Waxpool Road is mitigated by providing additional capacity to accommodate regional /existing traffic that will be diverted from Waxpool Road and Route 7 to utilize the proposed Gloucester Parkway link. Hence, the proposed Gloucester Parkway link provides the much-needed east-west alternative corridor to Waxpool Road and Route 7. By committing to construct this link, and attracting existing + regional traffic along with the site traffic, the applicant indirectly has committed to mitigate the impacts from site generated traffic along Waxpool Road and Route 7.

19) *Transit-related recommendations for this application, including a per unit transit contribution, have been discussed with the OTS transit manager. These include:*

- *Removal of the proposed temporary community parking lot described under draft proffer I. under III Transportation on page 25.*
- *Provision of \$575 per dwelling unit for use in providing transit and please insure that the applicant's proposed TDM program is identical to that approved under the Kincora Village Office/Recreational Complex under SPEX 2008-0054.*
- *Insure that the proposed bus shelters included under draft proffer J. under III Transportation on page 25 are in addition to the approved shelters under the Kincora Village Office/Recreational Complex under SPEX 2008-0054. Also, there needs to be language included in which the applicant will design and locate the proposed bus shelters with approval from the Loudoun County OTS staff.*
- *Under draft proffer L. Employee / Shuttle, it is recommended that this be a general service to serve the site with adequate (20 minutes recommended) headways and not limited to employees only. This would include changing the name to the Kincora Shuttle. Also, the draft proffer for this needs to be revised such that the 1,500,000 square feet threshold would include the square footage already approved under the Kincora Village/Office/Recreational Complex approved under SPEX 2008-0054. This service needs to be privately funded and operated. The phrase in the last sentence of draft proffer I "...provided there are uses located in Land Bays L, N, and Q that generate ridership demand deemed sufficient for such shuttle service." needs to be deleted as it would limit service.*
- *Finally, the proffers need to note that the specifications of this service will need review and approval from OTS.*

The revised proffers dated October 5, 2009 address the specifications of this service.

20) *In the applicant's draft proffers under III Transportation F. Traffic Signalization on page 24, the proposed*

\$160,000 set forth as a cash equivalent for signals is inadequate and is recommended to be \$300,000 in keeping with current cost estimates for the design and construction of a traffic signal. Please note that the conditions approved for the Kincora Village Special Exception (SPEX 2008-0054) condition the applicant to fund all signalization costs without a dollar cap. Also, it is unclear as to the number and location of these signals in the proffers. Please clarify.

The proffers state that signal warrant studies will be conducted at all site entrances providing full access along Pacific Boulevard for each phase. If the studies show that a signal is warranted, the applicant has committed to the installation of these traffic signals. In addition to the site entrances along Pacific Boulevard, the applicant is also committed to provide traffic signal at the intersection of Gloucester Parkway and Pacific Boulevard, if it has not been provided by others and subject to the approval of a traffic signal warrant study to VDOT. The cash equivalent amount has been adjusted in the revised proffers.

- 21) In the applicant's draft proffers, under III. Transportation C. Construction of Public Roads With A Community Development Authority (CDA) on pages 16-17, input from the County Attorney's Office is recommended. This is a road funding mechanism proposed by the applicant as an option to construct public roads.*

Comment noted.

- 22) The proposed trip distribution percentages need to be better clarified in the immediate vicinity of the site for each of the proposed phases. This will help to clarify the impacts of site traffic in the immediate vicinity of the roads.*

The traffic study provides separate graphics showing total site trips and site trips by each land use (office, residential and retail) for each study intersection for each phase. The site trip distribution shown in the graphics is not limited to site entrances, but also all regional intersections in the area identified in the scope. The graphics are attached at the back of this memorandum.

- 23) The proposed signal timing modifications proposed in the study for the Route 7/City Center Boulevard need to be reviewed in light of the Wells Study for the Dulles Town Center application dated October 1, 2008, and subsequent study dated June 18, 2009, with VDOT. Further discussion is recommended.*

Comment noted. The signal timing modifications in the study for the intersection of Route 7/City Center Boulevard were suggested under background conditions. Of note, Dulles Town Center was considered as a background development.

KINCORA
ZMAP 2008-0021

REVISIONS KEYED TO AGENCY REFERRAL COMMENTS

Revisions to Concept Plan

<u>Sheet No.</u>	<u>Revision</u>	<u>Referral Agency Comment Addressed</u>
1	Note 7 -- Added text: "federal."	ERT 16. B&D-P 4.
1	Note 8 -- Removed language: "and are only illustrative."	ERT 6.
1	Note 9 now references 2-foot contour aerial topography.	ERT 8.
1	Note 15(A) -- Added F.I.R.M. Map Panel Nos. 51107C0265D, 0266D and 0268D, dated July 5, 2001.	ERT 3.
1	Note 37 -- Added text: "trails."	OTS 9.
1	SHEET INDEX -- Removed references to Sheet 14A.	ZA C.2.
4-12 and 22-27	"Approximate Location LDN-60 Noise Contour" relabeled to read "Approximate Location LDN-60 1 Mile Buffer."	ZA C.5.
4, 9, 22, 24 and 26	Adjacent Lot 2-A relabeled Lot 1-A, GPIN #042-20-0913.	B&D-P 5.
4, 9, 22, 24 and 26	Adjacent Lot 4-A relabeled with correct lot owner name: "Utica Investment LLC."	B&D-P 5.
8-12	The floodplain restoration concepts approved with SPEX 2008-0054 are now depicted on Sheets 8-12 of the Concept Plan. Wetland mitigation, wetland mitigation bank, riparian reforestation, riparian preservation and tree conservation areas are depicted in the locations as depicted on the "Broad Run Restoration Concept Plan" prepared by Wetland Studies and Solutions, Inc. dated July 8, 2009 and as conditioned with SPEX 2008-0054 approved by the Board of Supervisors on July 21, 2009 subject to development conditions dated July 17, 2009. The proffers duplicate the commitment to implement these restoration activities in the event that development activities associated with this rezoning occur before those associated with the special exception.	ERT 1. ZA C.1. CP p. 27. CP p. 30. CP p. 31.

<u>Sheet No.</u>	<u>Revision</u>	<u>Referral Agency Comment Addressed</u>
8-12	RSCOD 50-foot Management Buffer has been further updated.	ERT 5. CP p. 30.
9, 11, 12	All references to "Structure Parking" relabeled "Structured Parking."	ZA C.6.
11	Minimum distance of 660' added to show intersection spacing between Road 1 and Road 2.	VDOT 3.
9, 11, 12	All references to "Office" uses relabeled as "Employment" uses.	ZA C.4.
9, 11, 12	All references to "Retail" uses relabeled as "Non-Hotel Commercial" uses.	ZA C.4.
9, 11, 12	"Civic Uses" added to labels showing permitted uses in Land Bay B, D F, H, J, K, N and Q.	ZA C.4.
9, 15, 24, 26, 29, 32, 34	Internal streets removed from Land Bays N and Q.	ZA B.2. VDOT 15.
11, 12	"Employment" uses added to the list of permitted use in Land Bay D.	ZA C.4.
13	MUB Land Bays and Development Phasing Charts and Notes revised and updated to reflect accurate uses, square footage and calculations and provide breakdowns.	ZA C.7. CP p. 7.
14	Modification of ZO Sec. 4-1356(C). Proposed Building Height limit of 160' in Land Bays B, F, J and Q.	ZA D.3.
14	"Workforce Housing" terminology replaced with "Unmet Housing Needs" terminology.	ZA E.3.
15	Existing Bike/Ped trail on the southern and northern sides of Gloucester Parkway added to Concept Plan. In addition, a Section was added depicting the Existing Bike/Ped Trail (Asphalt).	B&D-E 08. B&D-E 09. CP p. 23.
17	The Typical Peripheral Parking Screening Section was revised to show a 5' walkway between two 5' planting strips.	CP p. 22.
17, 18	References to Roads 13-17 (Land Bay Q) were removed from the Typical Private Road Sections. All private roads were removed from Land Bay Q.	ZA B.2.
17	Note added to Special Paving Crosswalk Section regarding accessibility standards.	B&D-E 10.
18A	Sheet added with Typical Street Sections for Land Bays J, F, B, N & Q.	ZA B.5.
19A	Sheet added to illustrate parking lot landscape treatments.	CP p.22.
27	A.1 proposed Floodplain Impact Areas labeled.	ERT 6.

<u>Sheet No.</u>	<u>Revision</u>	<u>Referral Agency Comment Addressed</u>
27, 33, etc.	Development Impacts removed from 50' Management Buffer.	ERT 5. ERT 6.
31	Architectural Master Plan revised to show Office uses on southern 40 acres.	ZA A.2.
34, 35	Note added to indicate that Natural Open Space Within RSCOD is to be dedicated to the County for passive park purposes. Total acreage to be dedicated confirmed as 162.11.	PRCS 2.
35	Natural Open Space marking removed from future Pacific Boulevard.	ZA C.11.

Revisions to Proffers

<u>Proffer No.</u>	<u>Revision</u>	<u>Referral Agency Comment Addressed</u>
Intro	Inserted accurate numbers for the total property owned by NA Dulles (396.87 acres) and for the portion that is the subject of this rezoning (336.60).	B&D-P 6. B&D-P 10.
I.B.	Included limit on total residential square footage of 1,544,000 s.f.	CP p.14.
I.B.2.	Removed references to freestanding retail establishments in Land Bays N and Q; "retail" reference changed to "non-hotel commercial."	ZA E.1.
I.B.3.	Included minimum square footage of 3,500 s.f. for restaurant and meeting facilities in planned full-service hotel.	CP p. 11.
I.B.6.	Proffer revised to confirm that no more than 50% of parks and/or open space will be located within the river and stream corridor resource area.	CP p. 12.
I.E.	"Workforce Housing Units" terminology globally changed to "Unmet Housing Needs Units."	ZA E.3.
I.F.1.	Square footage revised to allow a maximum of 195,000 square feet of retail sales establishments of the initial 780,000 square feet of non-residential development.	PRT I.F.1. CP p. 35 (L.3.).
I.G.1.	Included provision requiring notice to the County in the event the 2-acre performing arts site is no longer reserved for donation per the Proffer terms.	PRT I.G.

<u>Proffer No.</u>	<u>Revision</u>	<u>Referral Agency Comment Addressed</u>
I.H.	Included reference to Plan Sheets 19 and 20 and incorporated <u>Exhibit G</u> to provide illustrative of the planned central plaza.	ZA B.1. ZA C.10. ZA E.4. CP p. 35 (L.2.).
I.I.	Stated building height limits in feet.	ZA E.5.
II.	"Water Quality" was replaced with the detailed significant environmental commitments provided with SPEX 2008-0054, shown in the revised Proffers as Section II.C. – II.K. The SPEX Restoration Concept Plan has been incorporated as <u>Exhibit F</u> .	ERT 1. ERT 9. ZA C.1.
II.C.	Proffer limits of clearing and grading as conditioned with approval of SPEX 2008-0054.	ERT 6. ERT 7.
III.D.3.a.	Deleted reference to Land Bay M4.	ZA E.11. PRT III.D.3.a. B&D-P 18.
III.E.1.	Gloucester Parkway added.	PRT III.E.1.
III.F.	Cash contribution for traffic signalization changed from \$160,000 to \$275,000 to reflect current costs.	PRT III.F. OTS 20.
III.I. (former)	Deleted.	PRT III.I.
III.I. (current)	Included language obligating owner to coordinate design of bus shelters with OTS and to provide two (2) bus shelters in addition to those required with SPEX 2008-54.	OTS 19.
III.J.	Incorporated TDM and transit obligation of SPEX 2008-0054 and residential contribution.	OTS 8. OTS 19. CP p. 25.
III.H.	Language added to noise proffer to give priority to passive measures.	ERT 15.
III.K.	Included \$575 per dwelling unit cash contribution to fund capital equipment for transit services.	OTS 19.
III.L.	Included obligation to provide shuttle service to the nearest park-and-ride or regional transit facility until such time as regional transit service is available to the site.	OTS 19.
IV.C.	Revised proffer to reflect accurate acreage to be dedicated for passive park purposes -- 162.11 acres.	PRCS
V.B.	Clarified sight distances must be provided.	VDOT 13.
V.E.	Proffer revised to incorporate screening of internal surface parking areas comparable to that shown on Sheets 19 and 19A.	ZA E.13.

<u>Proffer No.</u>	<u>Revision</u>	<u>Referral Agency Comment Addressed</u>
V.F.	Proffer revised to obligate landowner to screen areas planned for structured parking in the event they are used as surface parking in the interim.	CP p. 22.
V.I.	Proffer revised to obligate landowner to ensure that all buildings are constructed with their principle entrances facing the street on which they front and to ensure that all building entrances have adequate pedestrian access from adjacent parking areas.	CP p. 10. CP p. 21. CP. p.23.
V.J.7.	New section added to obligate landowner to break up blocks longer than 600 feet in length.	CP p. 20.
V.L.1.	New section added to impose maximum building set back from all roads, except in specific circumstances.	CP p. 21.
V.L.1.	New section added to ensure minimum and maximum building setbacks along Route 28 and to ensure that surface parking adjacent to Route 28 and Pacific Boulevard are limited and adequately screened.	CP p. 21.
V.L.2.	New section added to ensure that buildings containing residential uses are located within 300 feet of an open space area at least 2,500 square feet in size.	CP p. 14.
V.L.3.	New section added to ensure that residential uses located in Land Bay F shall only be located within two hundred and fifty (250) feet of the buildings Road 8 frontage.	CP p. 26.
V.L.4.	New section added to ensure that retail sales establishments located within multi-story office buildings that front on Pacific Boulevard shall be oriented to the west.	CP p. 10. CP p. 27.
V.L.5.	New section added to ensure that no freestanding non-hotel commercial uses are located in Land Bay Q or Land Bay N.	CP p. 10. CP p. 27.
V.L.6.	New section added to ensure that the Property is adequately screened from the Route 28/Nokes Boulevard Interchange.	ZA
V.L.7.	New section added to ensure that, at build-out, buildings shall be constructed opposite the southern terminus of Road 8 (in Land Bay H) and the northern terminus of Road 9 (in Land Bay E).	CP p. 20.
VI.D. and E.	New sections added to ensure that the property is designed to permit adequate access and circulation of emergency personnel and vehicles.	FREM

<u>Proffer No.</u>	<u>Revision</u>	<u>Referral Agency Comment Addressed</u>
VIII.B.	Added reference to preliminary plat.	B&D-P 13.
Exhibit B	Revised <u>Zoning Ordinance</u> modifications to address Zoning comments.	ZA
Exhibit E	Revised PD-MUB incentive justifications to address Zoning comments, primarily related to availability of additional intensity.	ZA
Exhibit F	Included Broad Run Restoration Concept Plan for reference.	ERT ZA C.10.
Exhibit G	Included Sheets 19 and 20 for reference, as they do not reproduce well as Sheets of the Concept Plan.	ZA C.10.

REVISIONS KEYED TO AGENCY REFERRAL COMMENTS**KEY**

ERT =	Environmental Review Team	08/31/2009
OTS =	Office of Transportation Services	09/04/2009
CP =	Community Planning	09/01/2009
B&D-P =	Building & Development – Planning Division	09/18/2009
B&D-E =	Building & Development – Engineering Division	08/10/2009
PRT =	Proffer Referral Team	08/20/2009
FREM =	Fire, Rescue and Emergency Management	08/20/2009
VDOT =	Virginia Department of Transportation	08/28/2009
PRCS =	Parks, Recreation and Community Services	08/20/2009
ZA =	Zoning Administration	09/25/2009

**KINCORA VILLAGE CENTER
(ZMAP 2008-0021)**

Zoning Map Amendment Petition and Zoning Modifications

Statement of Justification

**October 31, 2008
July 23, 2009
October 5, 2009 (revised)**

INTRODUCTION

NA Dulles Real Estate Investor, LLC (the "Applicant") proposes to rezone 336.60 acres of a 396.91-acre parent tract (the "Property") located in the southwest quadrant of the Harry Byrd Highway (Route 7) and Sully Road (Route 28) interchange. The Property is bounded to the north and west by Broad Run, to the east by Route 28 and to the south by flex-industrial uses and Severn Way. The Property is more particularly described as Parcel Identification Number (PIN) references 042-29-6582, 042-49-0209 and 041-29-8238(pt.). The Property is currently zoned Planned Development-Industrial Park (PD-IP) pursuant to the provisions of the 1972 Zoning Ordinance and is subject to the requirements of the Floodplain Overlay District (FOD) and the Airport Impact Overlay District (AI). The Applicant seeks to rezone the Property to the PD-MUB, FOD and AI Districts, while the residual 60.27 acres will remain zoned PD-IP, FOD and AI. In addition to the zoning districts that govern the use of the site, the Property is also located within the Route 28 Tax Improvement District. The Property is located in the Broad Run Election District.

BACKGROUND AND PROPOSAL

On November 14, 2007, the Loudoun County Board of Supervisors (BOS) denied the Kincora Rezoning application (ZMAP 2006-0016) (the "Previous Application"), which requested approval to remap the parent tract of the Property, which at the time was 424 acres, from the PD-IP District to the Planned Development-Town Center (PD-TC) and Planned Development-Office Park (PD-OP) districts. The Previous Application proposed development of a vibrant, mixed-use business community, consisting of keynote employment office uses, support retail, multifamily residential uses, civic space and a 175-acre public park along the Broad Run. The Previous Application requested numerous modifications of the PD-TC and PD-OP zoning districts because even though the Property was well-suited for a mixed-use development, the Revised 1993 Loudoun County Zoning Ordinance did not provide a single zoning district that truly permitted and encouraged mixed-use development. On December 18, 2007, after the Previous Application had been denied, the BOS created a Planned Development-Mixed Use Business

(PD-MUB) District, which supports the type of high-quality mixed-use communities proposed with Kincora. If the PD-MUB District had been available, the Applicant would have requested rezoning to that district in the Previous Application, since Kincora was not intended to be a "town center," but rather a large-scale mixed-use business center consistent with the County's vision for the Route 28 corridor.

Since the BOS denial of the Previous Application, the Virginia Department of Transportation (VDOT) has acquired portions of the parent tract for the Route 28/Nokes Boulevard interchange; thereby reducing the size of the Property. In addition, a Special Exception application (SPEX 2008-0054) has been submitted on a portion of the original site to request approval of a recreational facility (minor-league baseball stadium), office space and auxiliary uses and was approved by the Board of Supervisors on July 21, 2009. The Special Exception and this Rezoning application are separate and stand alone, although the uses are integrated from a planning, transportation and layout perspective. With the addition of the baseball stadium and office uses in the Special Exception, this Rezoning application offers a development program that is different from the Previous Application. The integration of the proposed Special Exception uses into the proposed mixed-use business center not only creates a synergistic marquee development at the intersection of Routes 7 and 28, but it will generate the type of commercial tax base expansion envisioned for the Route 28 corridor.

The Property's proximity to major employment centers and Dulles International Airport and its access to Routes 7 and 28, position this Property for the Class A business community envisioned for Kincora. Recent trends in energy consumption and commuting patterns, as well as homeownership and quality of life issues, have increased the need for multifamily residential uses in proximity to employment and service related centers. In 2008, the keynote employment uses the County desires to grow its tax base, look to locate in mixed-use communities like Kincora. The office tenants want convenient proximity to residential, retail, entertainment and recreational uses. The ability to provide a successful work/live/play environment, while protecting significant environmental resources and completing necessary regional transportation improvements, will only be achieved through the Rezoning proposed by the Applicant.

The Property's current PD-IP designation would permit the development of light and medium industrial uses at a FAR up to 0.40. Development of the Property according to its present zoning would fail to capitalize on the Property's strategic location and would be a missed opportunity for the County to realize a high-quality development, maximize the potential tax base expansion, and obtain critical regional transportation links, including the extension of Gloucester Parkway. The proposed development (hereafter referred to as "Kincora Village Center") will promote several of the County's goals related to economic development, tax base expansion, environmental protection, recreational amenities, affordable housing, and regional transportation improvements. Development of the Property according to the provisions of the PD-IP District, as administered by the 1972 Zoning Ordinance, will not achieve these County goals and the Property at this key commercial location will remain underutilized.

FACTORS FOR CONSIDERATION OF A ZONING MAP AMENDMENT

Section 6-1211(E) of the Revised 1993 Loudoun County Zoning Ordinance provides criteria for consideration in the review of a request to reclassify property to a different zoning district. The following is an analysis of the criteria relevant to this proposal:

1) Whether the proposed zoning district classification is consistent with the Comprehensive Plan.

The Property is governed by the policies of the Revised General Plan, which recommends that the Property be developed with keynote employment uses. Keynote employment is characterized by large-scale offices with ancillary service and retail uses. The purpose of Revised General Plan designation is to achieve Class A office development along the Route 28 corridor. Kincora Village Center does that. However, the Revised General Plan's concept of "keynote employment" is outdated and does not accurately reflect current market demands and commercial office development patterns. Considering the Property's high visibility and excellent access at the Route 28/Nokes Boulevard interchange, the large-scale office component proposed with this Rezoning is entirely appropriate. However, the recommendation regarding the prohibition against residential uses in keynote employment areas neglects the need to enliven office parks with residential uses that house many of the employees of the office users, and reduce traffic impacts on regional roads. A 100% office complex will not occur on this Property in today's market, and the County's ultimate vision of keynote office uses will not be achieved. A more appropriate use for the Property, and one that ensures conformance with other components of the Revised General Plan related to environmental protection, road improvements and economic development, is only possible with a reclassification of the Property from the PD-IP District to a zoning district that is capable of providing the uses and amenities necessary to support a high-quality office community. Kincora Village Center will accomplish the County's economic development goals that are the heart of the keynote employment designation in the Revised General Plan. The PD-MUB District accommodates the type of business community that will thrive at this location and allow for the provision of significant enhancements for the County.

As illustrated in the following table, Kincora Village Center complies with the minimum use percentages of the PD-MUB District. In compliance with Section 4-1355 of the Revised 1993 Loudoun County Zoning Ordinance, Kincora Village Center proposes the following:

Use Category	Minimum Required per PD-MUB District	Gross Square Feet (GSF) Proposed
Residential	10% 539,202.5 square feet	27.98% 1,544,000
Commercial	5% 269,601.25 square feet	17.65% 973,825

Use Category	Minimum Required per PD-MUB District	Gross Square Feet (GSF) Proposed
Employment	40% 2,156,810 square feet	49.34% 2,722,200
Public/Civic/Institutional	5% 275,851.25 square feet	5.02% 277,000
Parks and Open Space	10% of total land area 33.66 acres	50% 160 acres
Total		100% 5,517,025

The development program for Kincora Village Center is designed to conform with the provisions of the PD-MUB District. With the PD-MUB District, the Applicant can avoid the plethora of zoning modifications that had been requested with the PD-TC District in the Previous Application. The PD-MUB District is a compatible district for this site, and it will allow the Property to be developed in a manner that accomplishes the goals and recommendations of the Revised General Plan given current trends and market dynamics.

2) Whether there are any changed or changing conditions in the area affected that make the proposed rezoning appropriate.

The Property is located at the crossroads of Loudoun County's principal commercial sector along the Route 28 corridor and the clustering of institutional and educational facilities along the Route 7 corridor. At this critical business location, this Property should, and could, be transformed from a vacant underutilized site into a thriving mixed-use development providing employment, office, retail, housing, civic and recreational uses and amenities. Construction of the Route 28/Nokes Boulevard interchange is nearing completion by the Route 28 public/private partnership. When opened, this new interchange will provide excellent access to the site from Route 28. Though this interchange is a major capital improvement, it is being constructed without the necessary collector roads (Pacific Boulevard and Gloucester Parkway) that are integral to relieving traffic congestion on Routes 28 and 7. Until Pacific Boulevard and Gloucester Parkway are constructed from the Route 28/Nokes Boulevard interchange across Broad Run to the north and west, the full traffic improvement potential of this interchange will not be realized. Kincora Village Center will complete the necessary road network with improvements that will not be provided with by-right development of this Property.

3) Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.

Surrounding properties are currently zoned PD-IP, PD-OP and A-3. All of these properties are recommended for keynote employment uses in the Revised General Plan. Aside from a few residential lots located on the north side of Broad Run across from the Property, the majority of properties in the vicinity have been rezoned and are developed with office, commercial and retail uses, as well as mixed-use development that includes residential. The PD-IP designation does not permit the type of development that sufficiently capitalizes on the significance of the Property's location. The PD-MUB District will permit the office, employment, retail and support services envisioned by the keynote employment designation of the Revised General Plan, but will also allow multifamily residential units that will support and ensure the viability of those employment uses. PD-MUB is compatible with properties in the immediate vicinity, and will provide services that will complement other developments in the area.

4) Whether adequate utility, sewer and water, transportation, school and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.

The Property will be served by public water and sewer, which will be coordinated with the Loudoun County Sanitation Authority. Adequate on-site stormwater management and best management practices facilities will be provided to ensure that water quantity and water quality controls will be provided in conformance with the FSM to protect the Broad Run and its associated floodplain. Public school and emergency management capacity will be examined during the review of this Rezoning application, though the Applicant is committed to providing adequate capital facilities contributions in accordance with the Revised General Plan to off-set potential impacts of the development.

The Route 28/Nokes Boulevard interchange is under construction on the Property. The purpose of this interchange, as with all of the Route 28 interchanges, is to remove traffic signals and at-grade intersections along the Route 28 corridor. A major component of the Route 28 improvements is to not only provide grade-separated interchanges, but to construct collector roads that connect to these interchanges, thereby providing alternative routes for local traffic. Two critical collector roads that are to serve the Route 28 and Route 7 corridors are located on this Property. With this Rezoning, the Applicant will dedicate right-of-way for and construct Pacific Boulevard and Gloucester Parkway on the Property, including crossings of Broad Run, which will provide significant regional benefits. These critical road improvements are analyzed in the Applicant's traffic impact study submitted with this application. Kincora Village Center also will provide a grid network of internal private streets lined with sidewalks and extensive pedestrian and bicycle trails located adjacent to Pacific Boulevard and Broad Run. The intention of all transportation mitigation measures will be to ensure the existing road network is not adversely impacted by the Kincora Village Center development.

5) The effect of the proposed rezoning on the County's ground water supply.

The proposed uses at Kincora Village Center will be served by public water and sewer. Therefore, no adverse impacts upon the County's ground water supply are anticipated.

6) The effect of uses allowed by the proposed rezoning on the structural capacity of the soils.

A detailed soils report for the Property will be submitted to the County at the appropriate stage in the development process, for the purpose of identifying any additional engineering methods that should be provided during development of the Property. Class I, II, IV and V soils are known to exist on the Property. The Applicant will ensure that proper erosion control measures are provided during all grading and construction activities in conformance with the FSM.

7) The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning uses sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.

The traffic impact study submitted with this application analyzes the impact Kincora Village Center will have upon the existing road network. The Route 28/Nokes Boulevard interchange, which is nearing completion, will not serve its intended purpose until the Pacific Boulevard and Gloucester Parkway connections are constructed. The Applicant will proffer commitments to provide these missing regional transportation links. The Pacific Boulevard improvements will connect the Route 28/Nokes Boulevard interchange northward across the Property and Broad Run to a connection with Russell Branch Parkway. The Gloucester Parkway improvements will connect the Route 28/Nokes Boulevard interchange westward across the Property and Broad Run to a connection with Loudoun County Parkway. The extension of Gloucester Parkway will provide a tremendous benefit to residents of Ashburn and will offer relief to users of Waxpool Road. The substantial transportation improvements with this Rezoning not only mitigate the traffic generated by Kincora Village Center, but provide desperately needed relief for traffic beyond this site. Each of these public road improvements will include pedestrian and bicycle lanes; sidewalks will be provided throughout the development along both sides of the grid network of private streets and a natural surface trail will be constructed within the Broad Run floodplain.

These transportation improvements, with significant benefits beyond Kincora Village Center, could be provided sooner in the development process through creation of a Community Development Authority (CDA). The Applicant intends to explore this opportunity with the County during the analysis of this application. Creation of a CDA will deliver these critical regional road improvements at the beginning of development of Kincora Village Center, thereby providing an extraordinary traffic benefit for the County soon, rather than toward the end of the project. If a CDA is not created, then the road improvements will be constructed according to a phasing schedule that will be tied to certain levels of development.

8) Whether a reasonably viable economic use of the subject property exists under the current zoning.

The Property is currently governed by the PD-IP provisions of the 1972 Zoning Ordinance, which permits the development of light and medium industrial uses. The Property has design constraints due to the presence of Broad Run and its associated floodplain. Under the current zoning classification, the Property has remained vacant with the exception of the construction of the Dominion Virginia Power electrical substation located in the southern portion of the site. Previous owners of the Property received approval of a Special Exception application to permit office use as the principal use on a portion of the site. None of these office buildings were ever built because single use office parks are deemed undesirable in this market. The approved special exception (SPEX 2008-0054) use on the property permits the construction of a recreational facility (minor league baseball stadium), office and auxiliary uses. As the multi-family units will serve as a catalyst for office development with this Rezoning application, the same principle applies with the recreational facility's ability to generate interest in office uses on the Property. Considering the availability of public utilities, access, visibility and buildable area, the Property beckons for development of a business community that can capitalize on this location. A site plan seeking by-right (flex-industrial) use of the Property has been submitted to the County as a contingency development scenario in case neither the Special Exception or Rezoning applications get approved. Clearly, a by-right use of the Property is not preferred by the Applicant, nor should it be by the County. The Applicant has not pursued by-right PD-IP uses on the site because this location can be so much more and the by-right uses will not achieve the County's or the owner's ultimate vision for the site. This Rezoning will provide a tremendous economic development opportunity that benefits both the property owner and the County.

9) The effect of the proposed rezoning on the environment or natural features, wildlife habitat, vegetation, water quality and air quality.

Broad Run forms the western and northern boundaries of the Property. The site contains approximately 180 acres of natural floodplain associated with Broad Run, as well as a heron rookery in the northwest corner of the Property, which the Applicant is committed to protecting. The limit of the floodplain has been altered by VDOT's construction activities associated with the Nokes Boulevard/Route 28 interchange, and will be further reduced in area by a pending floodplain study and proposed right-of-way dedication for the construction of Pacific Boulevard and Gloucester Parkway. Considering these alterations and right-of-way dedications, the resulting area of natural floodplain within the application area is approximately 160 acres. Per a recent determination by the Zoning Administrator (ZCOR 2009-0099) that construction of Pacific Boulevard on the Property would be a permitted use within the floodplain. Floodplain Study 2009-FPST-0004 was submitted to reflect the change in the floodplain elevation that would occur with the construction of Pacific Boulevard on the Property. Both the current and proposed floodplain elevations are depicted on the Concept Plan. The Applicant is committed to preservation of the floodplain on-site in its proposed location once construction of Pacific Boulevard is completed. This Rezoning proposes to preserve and protect the floodplain by avoiding unnecessary encroachments during development. Proposed intrusions into the floodplain, as permitted by the Revised 1993 Loudoun County Zoning Ordinance, include trail development consisting of a natural surface and a boardwalk, and wetlands mitigation and stream

reforestation activities. The Applicant's proposal presents an exciting opportunity to preserve and protect a key segment of Broad Run and its associated floodplain, including a vibrant heron rookery. Not only will these resources be preserved and protected, but public access to these areas will be provided through a series of environmentally sensitive trails that allow passive recreational opportunities for the public. In addition to protecting Broad Run and its associated natural resources, the mixed-use design of Kincora Village Center will promote a synergistic relationship between employment, commercial and residential uses on the Property that will allow people to live, work and recreate without cars. In an effort to promote the County's and region's goals of reducing greenhouse gas emissions, buildings will be constructed with energy efficient characteristics and the site will be developed with sidewalk lined streets, bike lanes adjacent to Pacific Boulevard and Gloucester Parkway and an overall integrated pedestrian trail network that will link all portions of the community and adjacent properties.

10) Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.

Kincora Village Center will provide a significant increase in tax revenue to the County, as well as an abundance of opportunities for job creation. The economic development potential of the Property, as envisioned by the Revised General Plan will not be realized unless the Property is rezoned to permit the type of mixed-use business community proposed in this application.

11) Whether the proposed rezoning considers the needs of agriculture, industry, and businesses in future growth.

The Property was previously used for agricultural purposes, which are no longer economically viable. Employment and commercial uses are the best economic uses of this Property. However, these uses will not locate here without the necessary amenities, services and residential uses. Business development of the Property is the ultimate goal of this Rezoning, but it will only occur as part of an integrated mixed-use development.

12) Whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes as determined by population and economic studies.

The Property is strategically located in an area of the County that is recommended by the Revised General Plan for business development, tax base expansion opportunities, environmental protection and significant transportation improvements. These goals will not be accomplished with by-right development of this site. Significant investments in the County's infrastructure and environmental resources are proposed with this Rezoning including, but not limited to, construction of critical links of Pacific Boulevard and Gloucester Parkway, dedication of land for a fire and rescue facility, protection of approximately 160 acres of floodplain, as well as significant expansion of the commercial tax base.

13) Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.

Kincora Village Center is a mixed-use business community, which will provide tax base expansion and job creation for the County. The mix of uses will be provided in an integrated, high-quality design which is necessary to attract and retain new employers and residents. In addition to the economic advantages of Kincora Village Center, the Applicant proposes to protect and preserve approximately 160 acres of floodplain that will be accessible to the public for passive recreation purposes.

14) Whether the proposed rezoning considers trends of growth or changes, employment, and economic factors, the need for housing, probable future economic and population growth of the county and the capacity of existing and/or planned public facilities and infrastructure.

The focus of Kincora Village Center will be the development of employment uses consistent with the goals of the Revised General Plan. These uses offer the County significant opportunities for economic development and tax base expansion at this vital location. Current land development trends, as dictated by tenants, require provision of housing, services and amenities as integral parts of office communities. These secondary uses are vital to encouraging the type of synergy demanded by tenants. The multifamily residential component of Kincora Village Center will provide convenient and affordable housing opportunities for people who desire to live near work. This type of housing supports office and retail development. Infrastructure, including regional road improvements, will be provided by the Applicant to support the uses at Kincora Village Center.

15) The effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of Loudoun County.

Kincora Village Center will provide convenient and affordable multifamily housing for people who desire to live near work. The Applicant is committed specifically to providing affordable dwelling units and workforce dwelling units. The goal is to provide 16.25% of the total number of dwelling units to persons whose gross median income is no greater than 100% of the Area Median Income (AMI). This commitment addresses a need in the County by providing affordable housing in close proximity to major employment centers.

16) The effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.

The Applicant is committed to protecting the environmental resources located on the Property. The Applicant proposes to preserve and protect approximately 160 acres of Broad Run floodplain and the existing heron rookery. The Applicant also is committed to creating opportunities for wetlands mitigation banking. Phase I and Phase II archaeological studies have been completed and a Memorandum of Understanding has been executed for a Phase III study on the Property.

PD-MUB INCENTIVES JUSTIFICATION

The PD-MUB District permits a maximum FAR of 0.5, but provides incentives that permit increases in the FAR up to 1.0. This Rezoning satisfies most of these incentives. Therefore, the maximum FAR for the Property, with incentives, would be 1.0, though the Applicant will commit to a lesser density with this application. The following justifications are provided for the incentives that this Rezoning satisfies in order to permit an increase in FAR in accordance with Section 4-1359(C):

- 1) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if the district size is a minimum of 100 acres.**

The Rezoning application is 336 acres, well in excess of the 100 acre minimum; therefore an increase in FAR of 0.1 is justified.

- 2) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if structured parking is provided to satisfy at least 50% of the required parking for the district. An increase of 0.2 FAR above the maximum permitted floor area ratio may be granted if 100% of the off-street parking is provided within structured parking. Such structured parking shall be designed in a manner that is integrated with nearby building architecture to minimize visual impact.**

Parking for Kincora Village Center will be phased with the development of the Property. At full build-out, at least 50% of the required parking necessary to support the uses will be provided through a combination of below and above grade parking structures. Above grade parking structures will be designed in a manner that is harmonious with the overall architectural scheme at Kincora Village Center. Therefore, an increase in FAR of 0.1 is justified.

- 3) The board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least 10% of the dwelling units provided are affordable to households earning up to 100% of the Washington Area Median Income (AMI), are located in vertically mixed buildings, and that covenants are recorded in favor of the County to maintain such affordability for a minimum period of 15 years.**

The Applicant is committed to providing at least 10% of the total number of dwelling units constructed within Kincora Village Center as affordable to persons earning up to 100% of the AMI. This will be accomplished through the provision of a combination of affordable dwelling units (available to persons earning up to 70% of the AMI) and other unmet housing needs programs such as workforce dwelling units (available to persons earning up to 100% of the AMI). Affordable dwelling units will be provided in accordance with the requirements of the Revised 1993 Loudoun County Zoning Ordinance. The balance of this 10% commitment will be composed of workforce dwelling units. Though the County does not have a formal program governing workforce dwelling units, the Applicant will work with the County during review of

this application to provide the necessary proffer commitments for these workforce units to be available to persons earning up to 100% of the AMI. Therefore, an increase in FAR of 0.1 is justified.

- 4) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least one of the following uses is provided. In addition, the floor area of such use will be excluded from the FAR calculations:**
 - (a) **Hotel, full-service to include a sit-down restaurant, meeting space, and at least two of the following in house services: exercise room, room service, or concierge service.**
 - (b) **Adult day care facility.**
 - (c) **Theater, indoor, limited to live performances.**

Kincora Village Center proposes to include at least one full-service hotel, as well as an indoor theater for the performing arts. Therefore, an increase in FAR of 0.1 is justified.

- 5) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if a local shuttle system or other public transportation improvement is provided by the applicant/landowner.**

The Applicant proposes to provide a local shuttle service that will provide transportation services for employers within Kincora Village Center to destinations in the vicinity, including Dulles Town Center. In addition, bus shelters will be provided along Pacific Boulevard, which will accommodate public bus service for the region once routes are established in the Route 28 corridor. Therefore, an increase in FAR of 0.1 is justified.

- 6) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio when at least 2 contiguous lots that existed at the time of adoption of this Ordinance with each having frontage on an arterial road, submit a single zoning map amendment application to a PD-MUB district with the CDP showing no direct access onto an arterial road from any such lot.**

The Property has frontage along an arterial road (Route 28). The Rezoning application proposes to remove all existing access points onto Route 28, and will provide access to Route 28 via the Route 28/Nokes Boulevard interchange that is currently being constructed on the Property. Therefore, an increase in FAR of 0.1 is justified.

Section 4-1359(D) of the Revised 1993 Loudoun County Zoning Ordinance permits additional incentives, which include:

- 1) **Areas within the FOD can be included when calculating the permissible FAR and residential density if a 25 foot natural buffer is maintained from the edge of the FOD.**

Floodplain associated with Broad Run is located on the Property. The Applicant proposes to preserve and protect this area. The Applicant proposes natural surface trails and a potential wetlands mitigation bank in the floodplain, which are permitted uses in the FOD. A 25 foot natural buffer adjacent to the FOD will be maintained, with the exception of necessary utility and public road crossings. Therefore, inclusion of the FOD in the FAR and residential density calculations is justified.

ZONING ORDINANCE, FSM AND LSDO MODIFICATIONS REQUESTED

Revised 1993 Loudoun County Zoning Ordinance Modifications

1) Section 4-1356(B)(1)--Front Yard.

The Revised 1993 Loudoun County Zoning Ordinance requires that the maximum front yard in the PD-MUB District not exceed 30 feet, though a maximum front yard of 50 feet may be permitted when a courtyard, plaza, terrace, or other common area a minimum of 300 square feet is provided adjacent to the front property line. This maximum area will be provided for uses within all Land Bays with the exception of Land Bay N. Because of the constrained physical layout of this Land Bay, a maximum front yard of 150 feet may be necessary. Considering the isolated application of this modification request, the Applicant does not believe that it will detract from the intent of the PD-MUB District.

2) Section 4-1356(B)(3)--Rear Yard.

The Revised 1993 Loudoun County Zoning Ordinance requires that the minimum rear yard in the PD-MUB District be at least 5 feet. The Applicant requests that rear yards of 0 feet be permitted, which is necessitated by the grid network design of streets and blocks that places buildings closer together. Regardless of this requested modification, the Applicant will ensure that necessary fire provisions are incorporated into all designs of buildings which will be verified during site plan review.

3) Section 4-1356(C)--Building Height.

The Revised 1993 Loudoun County Zoning Ordinance permits maximum building heights of 75 feet in the PD-MUB District. In order to fulfill the recommendations of the Revised General Plan to provide prominent buildings adjacent to Route 28, the Applicant requests that a maximum building height of 160 feet be permitted for Land Bays B, F, J and Q. Building heights within all other land bays will not exceed 75 feet.

4) Section 4-1358(B)2, Section 5-1413(C)(1)(a) & Section 5-1413(C)(2)(a)--Parking Lot Landscaping.

The Revised 1993 Loudoun County Zoning Ordinance requires that a 10-foot wide landscape strip be provided between parking lots and property boundaries. The Applicant requests that this be modified to permit landscaping strips that will be a minimum of 6 feet, which is adequate to support vegetation growth and afford proper buffering of parking areas.

5) Section 4-1358(C)--Tree Spacing.

The Revised 1993 Loudoun County Zoning Ordinance requires that street trees be provided adjacent to all areas dedicated for vehicle usage at a density of one tree per 25 linear feet. The Applicant proposes that this requirement be modified to permit street trees to be planted 44 feet on-center where on-street parking is provided and 35 feet on-center where on-street parking is not provided. It is the past experience of the Applicant and its consultants that trees planted according to the requested spacing is sufficient to support healthy vegetative growth.

6) Section 4-1359(D)(2)--Private Streets.

The Revised 1993 Loudoun County Zoning Ordinance permits the provision of private streets if residential uses are located within 1,200 feet of principal business uses and that 75% of the structures are multi-story mixed use structures. Each of the residential uses will be located within 1,200 feet of a principal business use structure. The majority of buildings will be multi-story mixed-use structures, though not the 75% required by this Section. The Applicant believes that the proposed development meets the intent of the PD-MUB District and that this development will be best served by private rather than public streets within the core of the development.

Facilities Standards Manual Modification

1) Section 4.310(C)--General Design Requirements.

The FSM requires that road jogs with center lines offsets of less than 225 feet shall not be allowed in public and Category A private roadways. The Applicant proposes that private streets within Kincora Village Center will be constructed with centerline offsets of a minimum of 90 feet, which is necessary to permit the type of street grid network including streetscapes that will promote pedestrian safety along these internal roads.

2) Section 4.310(G)--General Design Requirements.

The FSM requires that roadways intersecting with a public or Category A private roadway shall have a minimum length of 50 feet between curb returns and/or curb cuts. The Applicant proposes that Kincora Village Center will be constructed with private streets that will have a minimum of 0' between curb returns and/or curb cuts, which is necessary to permit the type of street network that will promote, and provide protection, for pedestrian activity along these internal roads.

3) Section 4.330(B)(2)--Private Roadway Standards.

The FSM requires that Category A roadways shall be constructed with cross section easements that are a minimum of 6' behind the face of curb. The Applicant proposes that the cross section easements for Category A roadways within Kincora Village Center be permitted to be constructed by the Owner with cross sections that will be a minimum of 0.5' feet behind the face of curb, which is necessary to permit the type of street network and design necessary to promote pedestrian usability while still ensuring vehicular and pedestrian safety.

4) Section 4.330(B)(3)--Private Roadway Standards.

The FSM requires that i) Category A1, A2, A3, A4 and A5 roadways be designed with a minimum curve radius of 110, 165, 338 and 478 feet, respectively – the Applicant requests that these curve radii be reduced to 50 feet; that ii) Category A2, A3, A4 and A5 roadways be designed with speeds of 25, 30 and 35 miles per hour, respectively – the Applicant requests that these design speeds be reduced to 20 miles per hour; and that iii) Category A1, A2, A3, A4 and A5 roadways be designed with sight distances of 150, 200 and 275, feet respectively – the Applicant requests that these sight distance requirements be reduced to 100 feet. The private roads within Kincora Village Center will provide adequate vehicular circulation and safety while promoting pedestrian safety and viability of streetscapes.

Land Subdivision and Development Ordinance

1) Section 1245.01(2)--Lots and Building Area.

The LSDO requires that all lots shall front on an existing or recorded public street dedicated by the subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation. In accordance with Section 4-1359(D)2 of the Revised 1993 Loudoun County Zoning Ordinance, which permits the construction of private streets within the PD-MUB District, Kincora Village Center will be developed with lots that will front on private streets constructed in accordance with applicable requirements of the FSM unless modified according to the conditions stated in the proffers for this Rezoning. All of the private streets will be maintained by the Owner's Association that will be created prior to occupancy of any of the buildings within the development.

DRAFT
10/5/09

KINCORA - ZMAP 2008-0021
CAPITAL FACILITIES CONTRIBUTIONS

KINCORA CAPITAL FACILITIES IMPACT (\$23,758 x 1172 market rate units)	\$27,844,376
KINCORA PROFFERED CAPITAL FACILITY CREDIT	\$55,188,137
Fire and Rescue site (\$435,600 x 5 acres)	\$ 2,178,000
Grading of Fire and Rescue Site	\$ 497,720
Trails 14,805 LF within floodplain x \$11.27/LF 1,124 LF boardwalk within floodplain x \$185/LF 4,463 LF along Pacific Blvd x \$27.78/LF 1,170 LF along Gloucester Pkwy x \$27.78/LF	\$ 677,397
Gloucester Pkwy Crossing of Broad Run/extension to Loudoun County Pkwy	\$31,994,650
Pacific Blvd Crossing of Broad Run/extension to Russell Branch Pkwy	\$11,019,650
Broad Run Floodplain Dedication (\$435,600 x 167 acres x 0.10)	\$ 7,274,520
Performing Arts Center (if dedicated to County) (\$435,600 x 2 acres)	\$ 871,200
Broad Run Toll House Preservation Activities (if required per Pacific Blvd alignment)	\$ 650,000
Heron Rookery Observation Platform	\$ 25,000

KINCORA
(ZMAP 2008-0021)

PROFFER STATEMENT

February 5, 2009

July 23, 2009

October 5, 2009

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page i

Table of Contents

	<u>Page</u>
I. LAND USE.....	1
A. Concept Plan.....	1
B. Uses, Maximum Density/Intensity of Use and PD-MUB Minimum Use Percentages.	2
1. Employment Uses	2
2. Commercial Uses	2
3. Hotel.....	3
4. Residential Uses	3
5. Public/Civic/Institutional Uses.....	3
6. Parks and Open Space.....	3
7. Site Plan/Record Plat Tabulations.....	4
C. Route 28 Prepayment of Taxes.....	4
D. Affordable Dwelling Units.	4
E. <u>Unmet Housing Needs</u> (Workforce Housing) Units.	4
F. Linkage of Office and Other Non-Residential Uses to <u>to</u> Residential Development.	5
G. Center for Performing Arts and Related Civic Uses.	6
H. Central Plaza.....	6
I. Building Heights.....	7
J. Vertically Mixed Building Design.	7
K. Zoning Modifications.	7
L. Floodplain Alterations <u>Boundaries</u>	7
II. ENVIRONMENTAL.....	8
A. Heron Rookery.	8
B. Central Water and Sanitary Sewer.....	8
C. Water Quality.	8
1. Floodplain	8
2. Wetlands <u>Limits of Clearing and Grading</u>	9
3. Wetlands	
<u>D. Wetland and Stream Mitigation-Banking, Riparian Preservation</u> <u>and Reforestation, and Wetland Mitigation Bank.</u>	9
<u>E. Open Space Easements.....</u>	9
<u>F. Tree Conservation.....</u>	10
<u>G. River and Stream Corridor Resources (RSCRE) Reforestation.....</u>	11
4. <u>H. Stormwater Management</u> Best Management Practices-9 <u>(SWM/BMPs)/Low Impact Development Techniques (LIDs).....</u>	12
<u>I. Stormwater Management Filter/Cartridge Maintenance.....</u>	12
<u>J. Broad Run Water Quality Monitoring.....</u>	12
<u>K. Trails Located Within the Floodplain.</u>	

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page ii

E. Tree Preservation Areas.....	12	
F. Reforestation for River and Stream Corridor Buffer Disturbances.....	13	
<u>GL</u>Harvesting Trees from Cleared Areas.....		13
H. Open Space Easement.....	13	
I. Natural Resource Management Plan.....	13	
J. Forest Management Plan.....	14	
<u>KM</u>Green Building Practices.....		14 <u>13</u>

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page iii

III.	TRANSPORTATION.....	<u>1514</u>
A.	Road Network.....	<u>1514</u>
B.	Pacific Boulevard Alignment.....	<u>15</u>
C.	Construction of Public Roads With a CDA.....	<u>1615</u>
1.	Gloucester Parkway.....	<u>1615</u>
2.	Pacific Boulevard.....	<u>16</u>
D.	Construction of Public Roads Without a CDA.....	<u>17</u>
1.	Uses In Land Bay Q.....	<u>17</u>
2.	Transportation Improvements for Transportation Phase 1A.....	<u>1817</u>
3.	Transportation Improvements for Transportation Phase 1B.....	<u>18</u>
4.	Transportation Improvements for Transportation Phase 2A.....	<u>2019</u>
5.	Transportation Improvements for Transportation Phase 2B.....	<u>2120</u>
6.	Transportation Improvements for Transportation Phase 3.....	<u>2221</u>
E.	Acquisition of Off-Site Right-of-Way/Easements.....	<u>2322</u>
F.	Traffic Signalization.....	<u>23</u>
G.	Cash Equivalent Contribution.....	<u>2423</u>
H.	Highway Noise Mitigation.....	<u>24</u>
I.	Temporary Community Parking Lot/Transit Contribution.....	<u>25</u>
J.	Bus Shelters.....	<u>2524</u>
K.	Transportation Demand Management Program.....	<u>25</u>
K.	Transit Service Contribution.....	<u>26</u>
L.	Employee Kincora Shuttle.....	<u>2726</u>
IV.	RECREATION AND HISTORIC.....	<u>2726</u>
A.	Recreation.....	<u>2726</u>
B.	Heron Rookery Observation Platform.....	<u>2827</u>
C.	Dedication of Floodplain Area and Trails.....	<u>2827</u>
D.	Broad Run Toll House.....	<u>2928</u>
V.	DESIGN.....	<u>2928</u>
A.	Design Guidelines and Architectural Review.....	<u>2928</u>
B.	Boulevard Entrances.....	<u>29</u>
C.	Alleys.....	<u>29</u>
D.	Demonstration of Square Footage Compliance.....	<u>3029</u>
E.	Screening of Internal Surface Parking Areas.....	<u>3029</u>
F.	Structured Parking.....	<u>3029</u>
G.	Loading Docks/Dumpster Pads.....	<u>30</u>
H.	Rooftop Mechanical Units.....	<u>30</u>
I.	Building Entrances.....	<u>3130</u>
J.	Streets, Streetscaping and Landscaping.....	<u>3130</u>
1.	Street Design.....	<u>3130</u>
2.	Street Trees.....	<u>3130</u>
3.	Private Streets.....	<u>3130</u>
4.	Streetscape Plan.....	<u>31</u>
5.	Landscaping.....	<u>31</u>

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page iv

6. On-Street Parking.....	3231
<u>7. Block Sizes.....</u>	<u>31</u>
K. Lighting.	31
<u>L. Specific Land Bay Design Obligations.....</u>	<u>32</u>
<u>1. Building Setbacks.....</u>	<u>32</u>
<u>2. Residential Open Space Amenities.....</u>	<u>32</u>
<u>3. Residential Uses in Land Bay F.....</u>	<u>32</u>
<u>4. Retail Sales Establishments in Land Bays West of</u> <u>Pacific Boulevard.....</u>	<u>32</u>
<u>5. No Freestanding Non-Hotel Commercial Uses</u> <u>in Land Bay Q or Land Bay N.....</u>	<u>32</u>
<u>6. Screening of Interchange.....</u>	<u>32</u>
<u>7. Terminus of Road 8 and Road 9.....</u>	<u>32</u>
VI. EMERGENCY SERVICES.....	3233
A. Fire and Rescue Site.	3233
B. Owner's Contribution.....	33
C. Sprinkler Systems.....	3334
<u>D. Fire & Rescue Review of Site Plans.....</u>	<u>34</u>
<u>E. Emergency Access.....</u>	<u>34</u>
VII. OWNERS ASSOCIATION.....	3334
VIII. MISCELLANEOUS.....	3435
A. Existing Wells and Drainfields.....	3435
B. Preliminary Soils Review.....	3435
C. Annual Escalation.....	3435
D. Severability.....	3435
E. Binding Effects.....	3435

Exhibits

<u>Exhibit A:</u>	Concept Plan
<u>Exhibit B:</u>	Zoning Ordinance ("ZO"), Facilities Standards Manual ("FSM") and Land Subdivision & Development Ordinance ("LSDO") Modifications
<u>Exhibit C:</u>	Amended Deed of Open Space Easement
<u>Exhibit D:</u>	Design Guidelines
<u>Exhibit E:</u>	PD-MUB District Incentives
<u>Exhibit F:</u>	<u>Broad Run Restoration Concept Plan dated June 2009, as revised through</u> <u>July 8, 2009</u>
<u>Exhibit G:</u>	<u>Central Plaza and Design Illustrations</u>

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 1

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

February 5, 2009

July 23, 2009

October 5, 2009

Pursuant to Section 15.2-2303, Code of Virginia, (1950), as amended, and Section 6-1209 of the Loudoun County Zoning Ordinance (1993), as amended (the "Zoning Ordinance"), NA Dulles Real Estate Investor LLC, a Delaware limited liability company (the "Owner"), who is the owner of Loudoun County Tax Map parcels 042-29-6582, 042-49-0209 and 041-29-8238 ~~(pt.)~~, **8238, consisting of a total of approximately 396.87 acres of real property, of which a portion** consisting of a total of approximately ~~336.64~~ **336.60** acres of real property (the "Property"), which Property is the subject of rezoning application ZMAP 2008-0021, hereby voluntarily proffers that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with the exhibits and zoning ordinance modifications attached hereto, all of which are incorporated herein by reference. All Proffers made herein are contingent upon the final approval by the Board of Supervisors of Loudoun County, Virginia (the "Board") of the change in the zoning districts requested in rezoning application ZMAP 2008-0021 from the PD-IP (Planned Development - Industrial Park), FOD (Floodplain Overlay District) and AI (Airport Impact) zoning districts to the PD-MUB (Planned Development - Mixed Use Business), FOD and AI zoning districts. Upon final approval of the requested change in zoning districts, these Proffers shall supersede all proffers previously in effect with respect to the Property, if any. All Proffers herein shall be binding on the Owner and its successors and assigns.

I. LAND USE

A. Concept Plan.

The Property shall be developed in substantial conformity with Sheets 1, 2 and 8-23 of the plan attached hereto as **Exhibit A** dated October 2008, as revised through ~~July 21,~~ **October 2,** 2009, and prepared by Urban Engineering Associates, Inc. (all 35 Sheets of such plan are collectively referred to hereafter as the "Concept Plan"). Sheets 3-7 and 29-35 of the Concept Plan are for information and illustrative purposes only. Sheets 8, 9, 10, 11 and 12 of the Concept Plan illustrate the layout proposed for development of the Property and indicate development limitations on the Property, such as public road rights-of-way, open space, **floodplain**

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 2

restoration activities and limits of clearing and grading for uses outside of the floodplain, which shall be observed during development of the Property as more particularly described in the Proffers.

The Owner shall have reasonable flexibility to modify the location of uses and layout shown on the Concept Plan to accommodate final engineering and development ordinance requirements, provided such changes are: (i) in substantial conformity with the approved Concept Plan and the Proffers; (ii) do not increase total permitted square footage; and (iii) do not decrease the minimum amount of open space or peripheral setbacks shown to be provided on the Property.

B. Uses, Maximum Density/Intensity of Use and PD-MUB Minimum Use Percentages.

The Owner may develop the Property with any of the uses permitted in accordance with the applicable zoning district, including any uses permitted by special exception for which approval of the requisite special exception is obtained. The Property may be developed up to the following maximum densities and intensities of use:

- Up to 3,973,025 square feet of non-residential uses.
- Up to 1,400 multi-family residential units **(not to exceed 1,544,000 square feet)**, inclusive of any required Affordable Dwelling Units ("ADUs") and **unmet housing needs** (workforce housing) units proffered herein in Proffer I.D. and I.E. and subject to the limitations set forth in Proffer I.B.4. below.

1. Employment Uses. A minimum of 40% of the total floor area to be constructed on the Property shall be devoted to the employment uses permitted in the PD-MUB District.

2. Commercial Uses. A minimum of 5% of the total floor area to be constructed on the Property shall be devoted to the commercial uses permitted in the PD-MUB District. Not more than 398,825 square feet of the 3,973,025 square feet of non-residential uses shall be non-hotel commercial uses. Of the 398,825 square feet of non-hotel commercial uses, at least 200,000 square feet shall be employment supportive uses, such as, but not limited to, the following examples: delis, coffee shops, restaurants, convenience stores, grocery stores, office supply stores, drug stores/pharmacies, greeting card stores, gas stations, retail sales establishments that are located on the first floor of a multi-story office building or multi-family residential building and similar uses that provide convenient sales and dining services to the employees and residents on-site (collectively, "Employment Supportive Uses"). With the exception of (i) grocery stores, (ii) health and fitness centers, and (iii) specialty retail sales establishments offering merchandise and programs related primarily to outdoor recreational uses and activities (such as, but not limited to, hiking, biking and/or water-related sports), each of which may contain up to 80,000 square feet, no individual retail sales establishment shall exceed

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 3

50,000 square feet of gross floor area. No freestanding retail sales establishments shall be located along the Pacific Boulevard frontage of the Property, ~~except for the area in Land Bay N in the northwest quadrant of the Route 28/Gloucester Parkway interchange and in Land Bay Q.~~ Retail sales establishments located within multi-story office buildings that front on Pacific Boulevard, ~~except for any retail sales establishments that might be located in multi-story office buildings in Land Bays N and Q~~ **in land bays west of Pacific Boulevard** shall be oriented to the west.

3. Hotel. The Owner may develop one or more hotel uses as part of the 3,973,025 square feet of non-residential uses. Such hotel uses shall not exceed a total of either 575,000 square feet or 720 rooms. At least one (1) of the hotels shall be a "full service hotel," which shall mean that it will have a range of services and amenities, including a sit-down restaurant **containing a minimum of 3,500 square feet**, room service, concierge services and meeting rooms **containing a minimum total of 3,500 square feet**.

4. Residential Uses. A minimum of 10% of the total floor area to be constructed on the Property shall be devoted to the residential uses permitted in the PD-MUB District. All residential uses on the Property shall consist of multi-family dwelling units and shall be located in Land Bays A, C, D, ~~E~~ **E** and ~~F~~ **E**, as such land bays are identified on ~~Sheet 30~~ **Sheets 8-12** of the Concept Plan. For any portion of the Property on which the Owner desires to develop multi-family dwelling units to be sold as separate units (such as condominium ownership), no building permit for, nor any conversion to, such for-sale units shall be permitted unless and until any community development authority debt payment obligations applicable to such portion of the Property, if any, have been fully satisfied. The Owner shall provide the County with sixty (60) days written notice prior to any conversion of rental units to such for-sale units for the purpose of confirming that the community development authority payment obligations for such units have been fully satisfied prior to such conversion. If a zoning permit has not been issued for the community recreation facility/baseball stadium approved with SPEX 2008-0054 prior to commencement of construction of greater than 1,550,000 square feet of non-residential uses, then the maximum number of residential dwelling units on the Property shall be 1,100.

5. Public/Civic/Institutional Uses. A minimum of 5% of the total floor area to be constructed on the Property shall be devoted to public/civic/institutional uses as permitted in the PD-MUB District. Examples of the public/civic/institutional uses that may be provided include village greens, plazas, sculpture and flower gardens, picnic areas, gazebos, government offices, public meeting halls, libraries, museums, community club houses, community centers, post offices, day care facilities, church sites, performing arts centers, amphitheaters (if approved by a subsequent special exception application) and the public use site identified in Land Bay N and described in Proffer VI.A. If public/civic/institutional uses are provided in buildings, the actual floor area of the portion of the building containing such civic/public uses shall be counted toward the minimum 5%.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 4

6. Parks and Open Space. A minimum of 10% of the land area of the Property shall be devoted to parks and/or open space. **No more than 50% of such parks and/or open space will be located within the river and stream corridor resource.** No more than 25% of the required buffers (such as landscape buffers along Pacific Boulevard) and "leftover spaces" (such as parking lot islands) shall be credited toward the minimum 10% parks and/or open space required by this Proffer. Such open space areas may include tot lots, pocket parks, stormwater management facilities, ~~seating areas~~ **constructed as wet ponds with year round amenities,** pathways and similar passive recreational amenities.

7. Site Plan/Record Plat Tabulations. Prior to the approval of each record plat or site plan for development on the Property, the Owner will submit a tabulation depicting (i) the total minimum amounts of employment, commercial, residential, public/civic/institutional and parks and open space uses to be provided on the Property pursuant to these Proffers, (ii) the amount of employment, commercial, residential, public/civic/institutional and parks and open space provided with previously approved record plats and site plans, (iii) the amount of employment, commercial, residential, public/civic/institutional and parks and open space provided with the subject record plat or site plan, and (iv) the remaining amount of employment, commercial, residential, public/civic/institutional and parks and open space to be provided on the balance of the Property, to insure the minimum percentages of uses will be provided.

C. Route 28 Prepayment of Taxes.

Within sixty (60) days of approval of this rezoning application ZMAP 2008-0021, the Owner shall provide prepayment of taxes that would have been attributable to the portion of the Property to be used for the multi-family residential dwelling units in accordance with the formula and provisions as adopted by the Board of Supervisors for optional residential development within the Route 28 Tax District.

D. Affordable Dwelling Units.

The Owner shall provide six and one quarter percent (6.25%) of the total residential dwelling units constructed on the Property, up to a maximum of 88 dwelling units, as affordable dwelling units (ADUs), as defined and required by the current provisions of Article 7 of the Zoning Ordinance. All of the ADUs shall be provided as multi-family units in mixed-use buildings. The development and administration of the ADUs shall be in accordance with the applicable provisions of the Zoning Ordinance and the Loudoun County Codified Ordinances.

E. Unmet Housing Needs (Workforce Housing) Units.

The Owner shall provide ten percent (10%) of the total residential dwelling units constructed on the Property, up to a maximum of 140 dwelling units, as "~~Work Force~~ **Unmet Housing Needs Units**" (**workforce housing**) which shall be available for purchasers or renters whose income does not exceed 100% of the area median income ("**AMI**") for the Washington Primary Metropolitan Statistical Area. These units shall be administered consistent with the

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 5

terms provided in the Affordable Dwelling Unit provisions of Article 7 of the Zoning Ordinance and in accordance with Chapter 1450 of the Loudoun County Codified Ordinances, except that (i) the income limit for qualified purchasers or renters shall be 100% of ~~median income~~ **AMI** for the Washington Primary Metropolitan Statistical Area, and (ii) all or any portion of such units may be located in a single building notwithstanding any provision of Article 7 to the contrary. All **unmet housing needs** (workforce housing) units will be provided within buildings that provide a vertical mix of units. The affordability requirement for all **unmet housing needs** (workforce housing) units will be set forth in a covenant approved by the County Attorney and recorded among the land records of Loudoun County.

In addition, if all or any portion of the residential component is exempt from the ADU requirement in accordance with the provisions of Article 7 of the Zoning Ordinance such that fewer than 88 ADUs are required, the Applicant shall provide one **unmet housing needs** (workforce housing) unit (as defined in this Proffer) for each such ADU that is not required, such that a total of sixteen and one quarter percent (16.25%) of the total residential dwelling units, up to a maximum of 228 dwelling units, are provided as either **unmet housing needs** (workforce housing) units or a combination of **unmet housing needs** (workforce housing) units and ADUs.

F. Linkage of Office and Other Non-Residential Uses to Residential Development.

Development of the residential uses on the Property shall be conditioned upon development of office and other non-residential uses constructed on the Property and/or on the portions of Loudoun County Tax Map parcel 041-29-8238 which are not included in ZMAP 2008-0021 (the "PD-IP Portion"). Development of the residential uses on the Property shall be as follows:

1. Zoning permits for at least 780,000 square feet of non-residential uses shall have been issued for the Property and/or for the PD-IP Portion prior to issuance of the zoning permit for the 701st residential dwelling unit, exclusive of ADUs and **unmet housing needs** (workforce housing) units, for the Property. Such 780,000 square feet of non-residential uses shall consist of (i) a maximum of 195,000 square feet of ~~retail sales~~ **non-hotel commercial** establishments, and (ii) a minimum of 150,000 square feet of ~~office~~ **employment** uses located in one or more office buildings, each containing at least 100,000 square feet each with a minimum of four floors. Such ~~200,000~~ **195,000** square feet of ~~retail sales~~ **non-hotel commercial** establishments shall consist of a minimum of 100,000 square feet of Employment Supportive Uses.

2. Zoning permits for at least 1,500,000 square feet of non-residential uses shall have been issued for the Property and/or for the PD-IP Portion prior to issuance of the zoning permit for the 926th residential dwelling unit, exclusive of ADUs and **unmet housing needs** (workforce housing) units, for the Property; provided, however, that if a zoning permit for the community recreation facility/baseball ballpark approved with SPEX 2008-0054 has been issued and construction of such facility is commenced and diligently pursued to completion, then zoning permits may be issued for up to a maximum of 1,075 residential dwelling units, exclusive

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 6

of ADUs and unmet housing needs (workforce housing) units, for the Property until zoning permits for at least 1,500,000 square feet of non-residential uses, including the floor area of the community recreation facility/baseball ballpark, shall have been issued for the Property and/or for the PD-IP Portion. Such 1,500,000 square feet of non-residential uses shall consist of (i) a maximum of 300,000 square feet of non-hotel commercial uses, and (ii) a minimum of 800,000 square feet of ~~office~~employment uses located in one or more office buildings, containing at least 100,000 square feet each with a minimum of four floors. Such 300,000 square feet of non-hotel commercial uses shall consist of a minimum of 180,000 square feet of Employment Supportive Uses.

3. When zoning permits have been issued for more than 1,500,000 square feet of non-residential uses, consistent with Proffer I.F.2. above, there shall be no further linkage limitation on the timing of residential uses on the Property. The ADUs and unmet housing needs (workforce housing) units described in Proffers I.D. and I.E. may be constructed regardless of the amount of non-residential uses constructed on the Property and/or the PD-IP Portion.

G. Center for Performing Arts and Related Civic Uses.

The Owner shall reserve, for a period of fifteen (15) years from the date of issuance of the first zoning permit for the Property, a minimum of two (2) acres in Land Bay J for donation to the County and/or to a non-profit entity, at the County's discretion, for the purpose of constructing a community center for performing arts and related civic uses. In the event during such fifteen (15) year period a community center for performing arts and related civic uses is approved for construction on the Property and donations have been received and/or agreements have been executed, ~~which that~~ will fully fund the design, engineering and construction of such center, then the Owner will donate, for no monetary compensation, such reserved parcel to the County and/or to such non-profit entity, at the County's election, for the purpose of constructing such center. **The following conditions shall apply to this reservation:**

1. If a zoning permit is issued for such a center containing a performing arts theater of at least 350 seats on property located within five (5) miles of the Property, then the Owner shall no longer be required by this Proffer to reserve a two (2) acre site for such a center. **The Owner shall advise the County of such performing arts theater within five (5) miles concurrently with submission of any site plan for development of the two (2) acre reservation area.**

2. If a final site plan application for such a center on the Property has not been filed within ten (10) years of the approval of ZMAP 2008-0021, then during the remaining five (5) years of this commitment, the Owner may satisfy the requirement to reserve two (2) acres by reserving a two (2) acre site in the ~~northeastern~~northern portion of the Property.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 7

3. Prior to the dedication of the site for a community center for performing arts and related civic uses, the Owner shall identify parking areas on the Property, within and/or outside of such two (2) acre site, that will be available to the users of such community center to meet the parking required for such facility under the Zoning Ordinance.

4. The Owner shall (i) construct street access and sidewalks to the community center, (ii) extend sewer, water, telephone, natural gas and electric service to the perimeter of the community center site, and (iii) design and construct, off-site from the community center site, such stormwater detention facilities as may be necessary to accommodate and detain stormwater runoff from the community center site, including planned paved areas and buildings, all concurrent with the Owner's own development activities on the portion of the Property abutting the community center site.

H. Central Plaza.

Prior to or concurrent with issuance of an occupancy permit for either the 701st residential dwelling unit **exclusive of ADUs and unmet housing needs (workforce housing) units** or the 425,001st square foot of non-residential uses, the Owner shall provide a central plaza consisting of a minimum of 10,000 square feet. The Owner shall provide public amenities in the central plaza that may include, but not be limited to, ponds, fountains, public art, seating areas, landscape areas and other similar features. The central plaza shall be consistent with the character and quality of the description of such central plaza shown on **Sheets 19 and 20 of** the Concept Plan **and in Exhibit G.**

I. Building Heights.

Buildings with frontage along the west side of, and within 100 feet of, Pacific Boulevard within Land Bays B, F, J and Q, with no intervening buildings between such buildings and Route 28, shall be constructed to heights of a minimum of four stories **or 50 feet**. Buildings located in Land Bay C shall not exceed 75 feet in height. No building on the Property shall exceed ~~150~~**160** feet in height.

J. Vertically Mixed Building Design.

A minimum of 50% of the buildings constructed on the Property shall be comprised of a vertical mix of uses consisting of at least two different use categories such as ~~office~~**employment**, residential, commercial, ~~hotel~~ and civic/institutional space. The Owner shall provide a tabulation with each site plan submission depicting the number of buildings located on the Property that contain a vertical mix of at least two (2) different uses. This tabulation shall be updated with each site plan submission to demonstrate those existing buildings, and those proposed buildings that contain a vertical mix of uses, as well as the number of buildings to be constructed under future site plans necessary to achieve the above-stated 50% minimum requirement.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 8

K. Zoning Modifications.

The Owner is requesting approval of certain modifications to the Zoning Ordinance ("ZO"), Land Subdivision and Development Ordinance ("LSDO"), and the Facilities Standards Manual ("FSM") as identified in **Exhibit B** entitled "Zoning Ordinance ("ZO"), Facilities Standards Manual ("FSM") and Land Subdivision & Development Ordinance ("LSDO") Modifications" dated July 23, October 5, 2009. To the extent such modifications are approved, the Owner will only utilize such modifications in accordance with the statements made in justification of, and consistent with the illustrations titled "Zoning Modifications Kincora Village," ~~and~~ dated July 23, 22, 2009 and October 2, 2009, included in the requests for such modifications, as contained in **Exhibit B**.

L. Floodplain Alterations~~Boundaries~~.

To the extent the ~~floodplain boundaries currently established for the Property are altered~~ **elevations and/or boundaries of the floodplain on the Property, as identified on the current Floodplain Map of Loudoun County, are changed, relocated and/or updated as a result of** either (i) ~~by construction performed by an entity that is exempt from the Zoning Ordinance (like the Virginia Department of Transportation ("VDOT")), or (ii) pursuant to~~ **approvals under the applicable provisions of for updating, correcting, interpreting or altering floodplain boundaries provided in** the Zoning Ordinance, the Owner reserves the right, without requiring a proffer amendment or zoning concept plan amendment, to use, **for any use permitted by-right or by an approved special exception in the underlying zoning district**, those areas **currently located** within the existing ~~major~~ **boundaries of the** floodplain ~~pursuant to as shown on the Floodplain Map of Loudoun County mapping, which in the future are no longer within the major floodplain, for any use in the underlying zoning district~~ **floodplain, including the right to use the area within any buffer associated with such former floodplain area**; provided (i) the total maximum nonresidential floor area and residential units committed in these Proffers are not exceeded, **and** (ii) ~~appropriate zoning determinations, appeals, modifications and/or Zoning Ordinance amendments by the County confirm that such areas may be so used, and (iii) the use of such areas complies with applicable federal and state laws and regulations that address the need for floodplain management and protection, including, without limitation, Federal Emergency Management Administration regulations, if applicable.~~

II. ENVIRONMENTAL

A. Heron Rookery.

Except for the construction, operation and maintenance of the wetlands and stream mitigation bank, on-site wetlands and stream mitigation, or riparian reforestation, no use, including the pedestrian trail system shall be located within the seven hundred (700) foot Rookery Radius shown on Sheet 12 of the Concept Plan, which shall serve as a setback from the documented location of the heron rookery identified on Sheet 12 of the Concept Plan. During the heron nesting season from March 1st to June 30th each year, no construction activity shall be

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 9

performed within the area defined as the one thousand four hundred (1400) foot Rookery Radius shown on Sheet 12 of the Concept Plan, or the 100-year floodplain boundary, whichever is less. The provisions of this Proffer II.A. shall supersede the provisions of Proffers II.C.1.

B. Central Water and Sanitary Sewer.

The Property shall be developed using central water and sewer facilities, which shall be provided to the Property at no cost to Loudoun County (the "County") or to the Loudoun Water. Water and sewer lines, pumping stations and related utility equipment shall be extended to the Property in accordance with Loudoun Water's adopted Master Plan for provision of water and sewer service.

C. Water Quality Limits of Clearing and Grading.

~~The Property shall be developed in an effort to minimize point source and non-point source pollution by adhering to the following development standards:~~ limits of clearing and grading shall be depicted as shown on the Concept Plan on each site plan submission. Encroachments beyond the limits of clearing and grading shall only be permitted for utilities, road access, stormwater management facilities, wetland and stream mitigation activities, trail development, or potential preservation activities associated with the Broad Run Toll House.

D. Wetland and Stream Mitigation, Riparian Preservation and Reforestation, and Wetland Mitigation Bank.

Prior to issuance of the first occupancy permit for any of the uses on the Property, the Applicant shall, subject to issuance of, and pursuant to, all requisite permits and approvals, provide wetland mitigation, stream enhancement, riparian preservation and reforestation, and install the wetland mitigation bank in the amounts specified in, at the general locations depicted on, and of a character consistent with, the Kincora Broad Run Restoration Concept Plan dated June 2009, as revised through July 8, 2009, prepared by Wetland Studies and Solutions, Inc. of Gainesville, Virginia (the "Restoration Concept Plan"), attached to these Proffers as Exhibit F. Such wetland mitigation, stream enhancement, RSCRE reforestation, riparian preservation and reforestation, and wetland mitigation bank shall be in substantial conformance with the design specifications, success criteria, and monitoring program contained in the Kincora On-Site Mitigation Plan (Grading Permit X20090680001) dated April 2008, as amended and approved by the County, with the exception that the planting plan (Sheets 26 through 40) shall be upgraded to incorporate the following minimum specifications for the category labeled "Additional Trees (Required for All Alternative)" depicted on Sheets 37 through 39: three (3) gallon, containerized, native deciduous trees planted at a density of 222 trees per acre on a fourteen (14) foot by fourteen (14) foot staggered grid.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 10

1. ~~Floodplain. With the exception of (i) construction within such areas where disturbance is determined to be permitted under the applicable provisions of the Zoning Ordinance, provided such construction is within the areas that are identified as being impacted on the Overall Floodplain Impact Plan provided on Sheets 26 and 27 of the Concept Plan, and (ii) construction and installation of the following, subject to any applicable approvals of necessary alterations to the floodplain, if any: (a) roads; (b) trails; (c) passive recreational facilities; (d) community gardens; (f) stormwater management and BMP facilities; (g) on-site wetlands and stream mitigation and/or wetlands and stream mitigation banking; (h) riparian reforestation; (i) utilities shown on the Concept Plan and appurtenant facilities; and (j) telecommunications, fiber optic cable and similar facilities, no land development activities shall be located and/or maintained in the major and minor floodplain areas indicated on Sheets 26 and 27 of the Concept Plan. Disturbances permitted within major and minor floodplain areas of the Property shall be designed to minimize the area of disturbance, retain existing vegetation to the extent possible, and shall be designed and constructed in a manner to protect water quality.~~

2. ~~Wetlands. If not previously obtained, then concurrently with submission of each construction plans and profiles or site plan application, whichever occurs first, for each section of the Property, the Owner shall submit for County review the U.S. Army Corps of Engineers wetland delineation study and permit application for any wetland areas within the confines of the portion of the Property which is the subject of such construction plans and profiles or site plan application. Concurrently with the submission to the County of such study and permit application, the Owner also shall submit to the Department of Building and Development a digital copy of the wetland data for the Property to assist the County in its efforts to inventory wetlands. Wetlands may be disturbed subject to the Owner obtaining all required permits. The Owner shall endeavor to mitigate wetlands impacts associated with development of the Property on-site. In the event that stream and wetland mitigation exceeding the quantities identified in Exhibit F are required to offset impacts associated with the uses on the Property (PIN #041-29-8238), the Applicant shall provide the additional mitigation elsewhere on the Property and/or on Tax Map Parcel PIN #'s 042-29-6582 and/or 042-49-0209 to the maximum extent possible. If such wetlands impacts cannot be mitigated on-site, the Owner shall mitigate such wetlands impacts first, elsewhere within the Broad Run watershed in the Suburban Policy Area, if available; then elsewhere. additional mitigation cannot be provided on the aforementioned Tax Map Parcels, the Applicant shall provide the mitigation according to the following prioritized order: (1) within the Broad Run Watershed within the same geographic Planning Policy Area, (2) within the Broad Run watershed ~~Watershed~~ outside of the Suburban ~~the Property's geographic Planning~~ Policy Area, if available; and then within Loudoun County, if available. and (3) within Loudoun County, subject to approval by the U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality.~~

E. Open Space Easements.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 11

3. ~~Wetlands Mitigation Banking. The Owner may use those portions of the Property identified on the Concept Plan as "Anticipated Area for Wetland Mitigation Bank" and "Proposed Possible Areas of Wetland Mitigation" for on-site wetlands and stream mitigation and/or wetlands and stream mitigation banking, subject to applicable laws, rules and regulations, and the construction of such wetlands and stream mitigation and/or wetlands and stream mitigation banking features shall be permitted in those areas even though such areas are not depicted within the limits of clearing and grading shown on the Concept Plan. In those~~ **Prior to the approval of the first site plan or construction plans and profiles for any use on the Property, the Applicant shall grant the County a perpetual Open Space Easement pursuant to Title 10.1, Chapter 17 Open- Space Land Act of the Code of Virginia ("Easement"), over and upon all of the land areas identified on the Restoration Concept Plan (Exhibit F) by the following labels: "Riparian Preservation Area," "Conservation Area," "Riparian Reforestation Area," "RSCRE Reforestation Area," "Stream Enhancement Area," "Wetland Mitigation Area," "Wetland Mitigation Bank Area" and over and upon all of the land** areas identified on the Concept Plan as "Anticipated Area for Wetland Mitigation Bank," the Owner shall, subject to such areas being suitable and subject to issuance of all requisite permits and approvals, provide wetlands and stream mitigation and/or wetlands and stream mitigation banking within three (3) years of issuance of the first zoning permit for a use of the Property. If such areas are not suitable and/or are not permitted for wetlands and stream mitigation, such areas shall not be used for any purpose other than those uses permitted in Proffer II.C.1. above. The Owner may provide wetlands and stream mitigation and/or wetlands and stream mitigation banking in those areas identified on the Concept Plan as "Proposed Possible Areas of Wetland Mitigation," but shall not be required to do so. **Tree Preservation Area."** The terms of such Easement shall grant the County a right of access to the Property subject to the Easement and the right to provide and/or complete the required wetland mitigation, stream enhancement, RSCRE reforestation, riparian preservation and reforestation, and wetland mitigation bank in the amounts specified and in the areas depicted on the Restoration Concept Plan (Exhibit F) in the event such actions are not completed by the Applicant. Such easement(s) shall be in a form approved by the County Attorney and shall be recorded among the Land Records. Additionally, the Applicant shall post a bond with the County in an amount sufficient to cover the cost of providing and completing the RSCRE reforestation, riparian reforestation, stream enhancement, wetland mitigation, and wetland mitigation bank, as shown on the Restoration Concept Plan, should these activities not already be subject to any State or Federal bond. Boundaries of the Easement shall be depicted on all site plans and construction plans and profiles submitted for the uses on the Property.

4. ~~Best Management Practices. The Property shall be developed in accordance with best management practices ("BMPs") which shall be defined as follows:~~

- a. ~~Structural and non-structural measures used in combination or as stand-alone facilities, shall be provided to control runoff from developed areas of the Property in accordance with and as required~~

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 12

~~by the FSM. Non structural measures shall include site design elements that minimize the creation of new impervious area, retain native vegetation to the extent possible, and utilize storm drainage systems that replicate the pre-development hydrology to the extent practicable.~~

~~b. Concurrent with submission of each site plan or set of construction plans and profiles, whichever occurs first, for each section of the Property, documentation in the form of calculations, design narrative and/or other pertinent supporting information shall be provided within the proposed BMP facilities' design to illustrate that there will be a minimum fifty percent (50%) phosphorus removal rate associated with the design for developed areas of the Property, per the following guidelines:~~

~~(i) The storage volume for each BMP impoundment structure shall be designed per the Loudoun County requirements stated within the FSM.~~

~~(ii) All BMP ponds shall be located outside of major and minor floodplain, unless approved by the applicable regulatory agencies.~~

~~(iii) Acceptable BMP measures, design and construction methods, and phosphorous removal efficiencies shall be based on the FSM, in place at the time of acceptance for review of the subdivisions plans, site plans and/or construction plans and profiles, supplemented by the standards of the Virginia Stormwater Management Handbook, latest edition.~~

It is understood that, as necessary to permit the development on the Property of the uses described in these Proffers and shown on the Concept Plan, the County will cooperate with the Owner to confirm, clarify and amend, consistent with the form Amended Deed of Open Space Easement attached to this Proffer Statement as Exhibit C, the existing open space easement that was dedicated to the County pursuant to the Deed of Open Space Easement recorded in Deed Book 2314, at page 1589 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia. To the extent required by the Open Space Land Act, and if necessary to allow for a release of any portion of the open space easement, the Owner will subject alternative land, acceptable to the Board of Supervisors to replace such portions of the open space easement to be released.

F. Tree Conservation.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 13

Within Conservation Areas shown on the Restoration Concept Plan and within Tree Preservation Areas shown on the Concept Plan, the Applicant shall preserve a minimum of eighty percent (80%) of the existing canopy in the cumulative Conservation Areas and Tree Conservation Areas, exclusive of stands of Virginia Pine over twenty-five (25) years in age. A maximum of twenty percent (20%) of the existing canopy may be removed to the extent necessary for the construction and/or installation of (a) utilities other than stormwater management ponds and similar facilities, (b) trails and Stormwater Management Facilities that are required pursuant to these Proffers, (c) stream and wetland mitigation activities, and (d) potential preservation activities related to the Broad Run Toll House.

If, during construction on the Property, it is determined by the Applicant's certified arborist or the County that any healthy tree located within the boundaries of any of the Tree Preservation Areas and Conservation Areas has been damaged during construction and shall not survive, then, the Applicant shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The placement of the replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area as requested by the County.

After construction has been completed by the Applicant, Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy may be undertaken. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or Property. Every site plan and any construction plans and profiles for any use on the Property that includes a portion of the land area required to be subject to the Easement shall contain a note stating that the removal of trees within the Open Space Easement is prohibited except in accordance with the provisions outlined in these conditions and the recorded Open Space Easement.

G. River and Stream Corridor Resources (RSCRE) Reforestation.

With the exception of the encroachments depicted on the Concept Plan, the River and Stream Corridor Resources (defined as including 100-year floodplains; adjacent steep slopes (slopes of twenty-five percent (25%) or greater, starting within fifty (50) feet of streams and floodplains and extending no farther than one hundred (100) feet beyond the originating stream or floodplain); and the fifty (50) foot management buffer surrounding floodplains and adjacent steep slopes within the Property shall be preserved and remain in their natural state. The Applicant shall replant open areas within or adjacent to the 100-year floodplain, without the need for a floodplain study, floodplain alteration or floodplain alteration waiver, in an amount equal to the area of the proposed development that encroaches into the River and Stream Corridor Resources, as shown on the Restoration Concept Plan. Such replanting shall be located first, to the extent feasible, in the general

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 14

vicinity of the areas disturbed, second, in the areas identified as "RSCRE Reforestation Area" on the Restoration Concept Plan (Exhibit F), and third, within Tax Map Parcel PIN #'s 042-29-6582, 042-29-8238, and/or 042-49-0209. The amount of such replanting shall exceed the 2.87 acres shown on the Restoration Concept Plan as necessary to achieve an amount equal to the areas of the proposed development that encroach into the River and Stream Corridor Resources.

The Applicant shall submit a riparian planting plan, prepared by a professional forester, landscape architect, or certified arborist, for such replanting areas. Such replanting plan shall be submitted at the time of each site plan or construction plans and profiles proposing the development of any area that encroaches into the River and Stream Corridor Resources for review and approval by the County Urban Forester. Each such plan shall provide for three (3) gallon, containerized, native, deciduous trees to be planted at a density of three hundred (300) trees per acre on a twelve (12) foot by twelve (12) foot staggered grid. Each approved riparian planting plan shall be implemented concurrent with the development of the areas subject to such site plans or construction plans and profiles prior to occupancy. In the event that a targeted stocking of seventy-five (75) percent survival with uniform distribution is not achieved within one (1) year, the Applicant shall provide supplemental planting to achieve the targeted stocking.

H. Stormwater Management Best Management Practices (SWM/BMPs)/Low Impact Development Techniques (LIDs).

(iv) — ~~Low Impact Development ("LID") techniques~~ The Property shall be developed in accordance with Best Management Practices (BMPs). Notwithstanding the SWM/BMPs depicted on the Concept Plan, Low Impact Development Techniques, such as but not limited to green roofs, rain gardens, cisterns, ~~manufactured facilities,~~ and planted swales shall be incorporated into the ~~subject property~~ Property's overall stormwater management approach where practicable in order to meet the applicable stormwater management requirements of Loudoun County inclusive of those BMPs depicted on the Concept Plan. The locations and water quality benefits of such LID techniques shall be included in each site plan and construction plans and profiles submitted for the uses on the Property.

~~(v) — All BMP ponds shall be designed and constructed as wet ponds or enhanced extended detention ponds.~~

I. Stormwater Management Filter/Cartridge Maintenance.

~~e. — The Owner shall cooperate with the County to provide for the County assuming maintenance responsibilities for the stormwater management/best management practice facilities, including, without limitation, the granting of appropriate easements, provided that the Owner shall maintain such facilities in accord with County rules and regulations until such facilities are dedicated to the County in fee simple or are accepted by the County for maintenance. — To the extent the Applicant installs underground (cartridge and/or filter system) stormwater~~

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 15

management facilities, the Applicant shall be responsible to maintain, repair, and replace such facilities at its sole cost and expense. in accordance with Chapter 1096 Stormwater Management of the Codified Ordinances of Loudoun County. The County, its agents, employees, successors and assigns, shall be entitled to have access to such facilities at any time to inspect, to ensure the fulfillment of the maintenance responsibilities, and, if necessary, at the County's sole discretion, to conduct such maintenance, repair and replacement as may be necessary, at the Applicant's expense. Prior to approval of the first site plan, the Applicant shall furnish a written maintenance agreement in a form approved by the County Attorney and a financial guarantee in the form of a cash escrow or irrevocable letter of credit satisfactory to the Director of General Services to secure its obligation to provide appropriate and necessary maintenance, repair, and replacement of such underground stormwater management facilities. The financial guarantee shall remain in force and effect for a period of twenty-five (25) years, and the amount of the financial guarantee shall be \$1,625.00 per underground filter or cartridge covered by the maintenance agreement unless the Director of the Department of General Services shall approve a lesser amount. The maintenance agreement shall be recorded among the land records and shall remain in force for so long as such underground facilities remain in use.

J. Broad Run Water Quality Monitoring.

Surface water quality monitoring shall be conducted by the Applicant for the purpose of monitoring water quality impacts of the uses on the adjacent Broad Run. The Applicant shall, in cooperation with County Staff, and concurrent with submission of the first site plan or construction plans and profiles for a use on the Property, whichever is first in time, develop a water quality monitoring plan for monitoring sites quarterly, that identifies the location of monitoring sites, sampling and assessment protocols, format of data reporting, and water quality thresholds as a basis for corrective action based on sampling. If at any time the monitoring results exceed the established water quality thresholds, the Applicant shall take immediate action to investigate the condition. If the condition is a result of activity on the Property, the Applicant shall take immediate action to remediate the condition to the established water quality thresholds. Monitoring activities shall begin at least thirty (30) days prior to land disturbance associated with construction of the first use on the Property and shall be conducted through a time period of one year after release of the final construction performance bonds for the uses. The County shall have the authority, with adequate notice to the owner, to enter the Property at any time to test the water quality of Broad Run and its tributaries.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 16

K. ~~D.~~ Trails Located Within the Floodplain.

Trails located within the floodplain shall be constructed with pervious surfaces and, where such trails cross jurisdictional waters and/or wetlands, raised boardwalks, with designs consistent with the ~~three~~ sections provided on Sheet 15 of the Concept Plan, provided the Owner reserves the right to construct an impervious trail connection from the developable portion of the Property to the heron rookery observation platform to be constructed pursuant to Proffer IV.B. Public access easements shall be provided on all trails located within the floodplain.

E. ~~Tree Preservation Areas.~~

~~Within the areas identified on Sheets 22 and 23 of the Concept Plan as "Tree Preservation Areas," the Owner shall preserve existing healthy trees provided, however, that trees may be removed to the extent necessary for the construction and installation of the following: (a) trails; (b) passive recreational facilities; (c) stormwater management and BMP facilities; (d) riparian reforestation; (e) on-site wetlands and stream mitigation and/or wetlands and stream mitigation banking; (f) utilities shown on the Concept Plan and appurtenant facilities; and (g) telecommunications, fiber optic cable and similar facilities. A minimum of eighty (80) percent of the canopy within the cumulative Tree Preservation Area depicted on the Concept Plan will be preserved, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent canopy threshold cannot be achieved within the designated Tree Preservation Areas, such lost canopy will be recaptured elsewhere onsite in locations to be designated at the discretion of the Owner in consultation with the County. Boundaries of all Tree Preservation Areas shall be delineated on the record plat recorded for each section of the development.~~

~~If, during construction on the Property, it is determined by the Owner's certified arborist and/or the County that any healthy tree located within the boundaries of any of the Tree Preservation Areas described in this Proffer has been damaged during construction and will not survive, then, prior to occupancy of the first use in any section containing or immediately adjacent to a Tree Preservation Area, the Owner shall remove each such tree and replace each such tree with two (2) 2½ – 3 inch caliper native, non-invasive deciduous trees. The placement of the replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area as requested by the County.~~

~~The Owners Association documents described in Proffer VII. below shall include a provision that prohibits removal of trees in Tree Preservation Areas as shown on the record plat after construction has been completed by the Owner without specific permission of the County Urban Forester except as necessary to accommodate Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect infested, dead, or are considered a hazard to life or property. The Owners Association documents shall clearly state~~

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 17

~~that such provisions prohibiting tree removal shall not be amended by the Owner or the Owners Association without written approval from the County. The record plat for each portion of the Property containing a Tree Preservation Area shall contain a note stating that the removal of trees within a Tree Preservation Area is prohibited except in accordance with the Declaration of Conditions, Covenants and Restrictions recorded for the Property.~~

F. — Reforestation for River and Stream Corridor Buffer Disturbances.

~~With the exception of the encroachments depicted on the Concept Plan, the River and Stream Corridor 50-foot Management Buffer as shown on the Concept Plan shall be preserved and remain in its natural state on the Property. The Owner shall replant open areas within or adjacent to the 100 year floodplain, without the need for a floodplain study, floodplain alteration or floodplain alteration waiver, in an amount equal to the area of the proposed development that encroaches into the River and Stream Corridor 50-foot Management Buffer. Such replanting shall be located, to the extent feasible, in the general vicinity of the areas of the 50-foot Management Buffer that are disturbed. The Owner shall submit a riparian planting plan, prepared by a professional forester, landscape architect or certified arborist, for such replanting areas at the time of each site plan or construction plan and profiles for the development of those areas that encroach into the 50-foot Management Buffer for review and approval by the County Urban Forester. The approved riparian planting plan will be implemented concurrent with the development of the areas subject to such site plans or construction plans and profiles.~~

L. G. — Harvesting Trees from Cleared Areas.

The Owner shall harvest trees from those areas of the Property that are forested and are to be cleared by the Owner for development of the uses on the Property. The Owner shall retain any proceeds received from the sale of the harvested forest products.

H. — Open Space Easement.

~~It is understood that, as necessary to permit the development on the Property of the uses described in these Proffers and shown on the Concept Plan, the County will cooperate with the Owner to confirm, clarify and amend, consistent with the form Amended Deed of Open Space Easement attached to this Proffer Statement as **Exhibit C**, the existing open space easement that was dedicated to the County pursuant to the Deed of Open Space Easement recorded in Deed Book 2314, at page 1589 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia. To the extent required by the Open Space Land Act, and if necessary to allow for a release of any portion of the open space easement, the Owner will subject alternative land, acceptable to the Board of Supervisors to replace such portions of the open space easement to be released.~~

I. — Natural Resource Management Plan.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 18

~~Prior to first site plan approval or record plat approval, whichever is first in time, for the initial section of development of the Property, the Owner shall develop a Natural Resource Management Plan ("NRMP") in cooperation with the County's Department of Parks, Recreation and Community Services ("PRCS"), Environmental Review Team ("ERT") and the County Urban Forester for the purpose of maintaining the major floodplain areas located on the Property. The NRMP shall include, but not be limited to, the following elements: a) an objective; b) an assessment of existing resources; c) management recommendations; and d) an activity schedule. Once established, the NRMP shall be incorporated into the Owners Association documents to require the Owners Association to comply with the NRMP, and such provisions shall not be amended without the consent of the County.~~

J. Forest Management Plan.

~~Prior to the first site plan approval or record plat approval, whichever is first in time, for the initial section of development of the Property, the Owner shall develop a Forest Management Plan ("FMP") for the purpose of providing maintenance for all Tree Preservation Areas depicted on the Concept Plan and subject to Proffer II.E. The FMP shall be developed in cooperation with representatives from PRCS, ERT and the County Urban Forester. Elements of the FMP shall include, but not be limited to: a) an objective; b) a resource assessment; c) management recommendations; and d) an activity schedule. Once established, the FMP shall be incorporated into the Owners Association documents to require the Owners Association to comply with the FMP, and such provisions shall not be amended without the consent of the County.~~

M. K. Green Building Practices.

The Owner shall employ development attributes of the United States Green Building Council's Leadership in Energy and Environmental Design ("LEED") program into the planning of the ~~office~~**employment** and residential buildings that are **a minimum of four (4) stories or more fifty (50) feet** on the Property. Those elements may include, but shall not be limited to, sustainable site design, water efficiency, energy management, materials and resource reuse, and/or interior environmental quality. The following alternative transportation-related elements will be included throughout the Property:

- a. **secure** bicycle parking areas for all ~~office~~**employment** and commercial buildings and sheltered bicycle parking areas for multi-family ~~housing~~**residential buildings**;
- b. shower facilities for employees in all buildings **at least four stories or fifty (50) feet in height and** containing greater than 100,000 square feet of non-residential uses; and
- c. the locating of a bus or shuttle stop within one-quarter mile of each ~~office~~**employment** and commercial building.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 19

While this Proffer shall not be construed as a commitment to obtain a certain level of LEED certification, the design and construction of all ~~office~~**employment** and residential buildings ~~with a minimum of~~ four (4)-stories or ~~more~~**fifty (50) feet** will incorporate sustainable building elements for LEED version 3, or the current version of LEED effective at the time of site plan submission for New Construction or for Core and Shell, and will be designed to achieve LEED goals, including reduction in potable water use, energy use reductions, construction waste diversion from sanitary landfills or incinerators, and enhanced indoor environmental conditions, to the extent the Owner determines that such LEED elements and goals can be incorporated without impairing the competitiveness of the Owner's buildings in the marketplace.

The Owner shall employ a LEED accredited professional in the design of each ~~office~~**employment** and residential building ~~with a minimum of~~ four (4)-or-more-stories **or fifty (50) feet in height.**

All residential buildings and individual dwelling units shall be outfitted with energy efficient appliances including, but not limited to, ENERGY STAR or an energy efficient rating equivalent qualified dishwashers, refrigerators and clothes washers. In addition, each residential building shall include conveniently located facilities to enable residents to recycle mixed waste products.

III. TRANSPORTATION

A. Road Network.

Unless otherwise specified in the Proffers, all roads required for access to and within the Property shall be constructed in accordance with the County's Land Subdivision and Development Ordinance and the FSM to provide access to the various portions of the Property as they are developed. All public roads required for access to and within the Property shall be designed and constructed in accordance with applicable VDOT and County standards. Except as provided in Proffer III.C., on-site public roadways shall be constructed as development of each section of the Property that includes such roadways occurs consistent with the timing specified in Proffer III.D.

Dedication of land for public roads and parallel trails shall include all related easements outside the right-of-way, such as slope, maintenance, storm drainage and utility relocation easements, necessary to construct the public roads and parallel trails shown on the Concept Plan within the Property and along the Property's existing public street frontage. Dedication of right-of-way and easements to the County for the public roads and parallel trails shown on the Concept Plan shall occur concurrently with development of each section of the Property unless already dedicated by others. However, if requested by the County to dedicate the right-of-way and related easements in advance of development on the Property, the Owner shall make such dedication if: (1) others have prepared and obtained final approval of construction plans and profiles consistent with the Concept Plan, which require dedication to commence construction;

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 20

and (2) provided that the Owner shall not be obligated to incur costs or post bonds with the County in connection with such dedication.

B. Pacific Boulevard Alignment.

The final alignment of Pacific Boulevard as it crosses the northeast corner of the site and Broad Run and connects to Russell Branch Parkway shall be determined at the time VDOT right-of-way plans and/or Owner-initiated construction plans and profiles are approved, and such alignment may be shifted from the alignment shown on the Concept Plan without requiring a Zoning Concept Plan Amendment or proffer amendment. If the Board of Supervisors approves the creation of a community development authority to finance construction of Pacific Boulevard, and VDOT and/or the County have not approved the final alignment of the off-site portion of Pacific Boulevard in connection with the review and approval of the requisite plans for Pacific Boulevard, the community development authority shall, at the time required by the terms of these Proffers, deposit with the County the necessary funds for the construction of that segment of Pacific Boulevard, in the alignment shown on the Concept Plan, to be held by the County and used only for the future construction of that segment of Pacific Boulevard. Any interest that accrues on such funds shall likewise be held and used only for the construction of that segment of Pacific Boulevard. Any portion of such funds or accrued interest that is not used for the construction of Pacific Boulevard, if any, shall be returned to the community development authority.

C. Construction of Public Roads With a CDA.

In the event the Board of Supervisors creates for the Property a community development authority ("CDA") pursuant to § 15.2-5152 et seq., Code of Virginia (1950), as amended, the Owner shall dedicate right-of-way to the County and/or to VDOT, if and as necessary for the ultimate configuration of the following road improvements and, with the funding to be provided by such CDA, shall construct, bond for construction or cause to be constructed the following transportation improvements, within three (3) years of the date the CDA is created by the Board, with reasonable extensions to be granted should market conditions not permit issuance of CDA bonds at a reasonable rate of interest:

1. Gloucester Parkway. The extension of Gloucester Parkway as shown on the Concept Plan from the planned terminus of the Route 28/Gloucester Parkway interchange project, across the Property and Broad Run, and, subject to the provision of off-site right-of-way by others, to Loudoun County Parkway. Such extension of Gloucester Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section and a ten (10) foot wide bicycle trail on the north side of such extension of Gloucester Parkway. The Owner shall dedicate right-of-way on the Property for Gloucester Parkway 120 feet in width to accommodate an ultimate 6-lane divided section. The Owner shall construct the 4 lanes required by this Proffer as the outer lanes of the ultimate planned 6-lane divided road section for Gloucester Parkway.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 21

2. Pacific Boulevard. The Owner shall construct the extension of Pacific Boulevard as shown on the Concept Plan from the southern Property boundary across the Property and Broad Run, and subject to provision of off-site right-of-way by others, to the current terminus of Russell Branch Parkway. Such extension to Russell Branch Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section and a ten (10) foot wide bicycle trail on the ~~east~~west side of such extension of Pacific Boulevard; provided the Owner/CDA shall not be responsible for any portions of the four lane section which have been or are committed to be constructed by others.

On or before the date that is sixty (60) days from the date of final approval of this rezoning application (ZMAP 2008-0021), the Owner shall petition the Board of Supervisors to create a CDA for the purpose of financing construction of at least the road improvements identified in this Proffer. The Owner shall include all of the Property in the petition to create such CDA. The Owner shall be permitted to coordinate the timing and implementation of construction of these public roads pursuant to this Proffer with other construction projects by others, provided such public roads are constructed or bonded for construction within three (3) years of the date the CDA is created by the Board, with reasonable extensions to be granted should market conditions not permit issuance of CDA bonds at a reasonable rate of interest. Nothing provided in this Proffer shall prevent the Owner from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles and grading permit) for the Property, nor from commencing construction on the Property, during the design and construction of these public roads. In the event the CDA is created to finance construction of the roads identified in this Proffer, the Owner shall be allowed to develop any uses permitted on the Property without regard to the provisions of Proffer III.D. below, as long as (i) such uses are consistent with the linkage limitations outlined in Proffer I.F., and (ii) the Owner provides the necessary intersection improvements to connect the private streets to Pacific Boulevard as shown on the Concept Plan. In the event the necessary right-of-way for the off-site portions of Gloucester Parkway and/or Pacific Boulevard have not been dedicated to VDOT and/or the County and have not otherwise been acquired by VDOT and/or the County, within twelve (12) months of the date the CDA is created, the Owner's and/or the CDA's obligation to construct the off-site portions of the respective road for which the right-of-way is needed shall be deferred until such time as the right-of-way is acquired, and the Owner shall be permitted to pursue development of the Property notwithstanding that such portion of the road is not constructed. The CDA shall be responsible for maintenance of the segments of road constructed by the CDA until such time as such segments of road are accepted into the VDOT system for maintenance.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 22

D. Construction of Public Roads Without a CDA.

If the Board of Supervisors has not created a CDA for the Property to fund the transportation improvements described in Proffer III.C. above, within twelve (12) months of the final approval of this rezoning application ZMAP 2008-0021, and the Owner desires to proceed with development of the Property without CDA financing, the Owner shall construct or bond for construction the following transportation improvements in accordance with the transportation construction schedule set forth below, which includes in the non-residential use numbers all non-residential uses constructed on Property and on the PD-IP Portion:

1. Uses In Land Bay Q. Unless already constructed by Owner or others, prior to the first site plan approval for construction of any use in Land Bay Q, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road, and construct the two additional lanes of Pacific Boulevard from the southern Property boundary to Gloucester Parkway as shown on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes and transitions to an undivided section to the south as required by VDOT.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

2. Transportation Improvements for Transportation Phase 1A (initial uses of the Property and PD-IP Portion up to and including 300,000 square feet of non-residential uses (which may include up to 270 hotel rooms) and 300 residential dwelling units). Prior to the first record plat or site plan approval, whichever is first in time, for construction of any use on the Property, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road, and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its intersection with Gloucester Parkway as shown on the Concept Plan to a point sufficient to provide access to the portion of the Property proposed for such uses. Such portion of Pacific

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 23

Boulevard shall consist of two lanes of the ultimate four-lane divided road, as such four-lane divided road is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph to serve the portion of the Property proposed for such use. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

3. Transportation Improvements for Transportation Phase 1B (up to and including 1,125,000 square feet of non-residential, non-hotel uses, 270 hotel rooms and 700 residential dwelling units). Prior to issuance of the zoning permit for the 300,001st square foot of non-residential uses (inclusive of any hotel rooms constructed in Phase 1A) or the 301st residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard ~~and with Road 2 between Land Bays M4 and K, 2~~ and with Road 2, or to a point further north of this intersection if such extension is necessary to provide access to the portion of the Property proposed for such uses, as such four-lane divided section is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals are not warranted at the time of the initial construction of Pacific Boulevard in Transportation Phase 1B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2A, if warranted by VDOT at that time.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 24

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others, the Owner shall install a traffic signal at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the time of the construction of the portion of Pacific Boulevard identified in Transportation Phase 1B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2A, if warranted by VDOT at that time.

4. Transportation Improvements for Transportation Phase 2A (up to and including 1,700,000 square feet of non-residential, non-hotel uses, 500 hotel rooms and 1,068 residential dwelling units). Prior to issuance of the zoning permit for the 1,100,001st square foot of non-residential, non-hotel uses, the 271st hotel room, or the 701st residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard and Road 1 between Land Bays F and B, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals proffered in

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 25

Proffer III.D.3.a. are still not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal will be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout will be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

5. Transportation Improvements for Transportation Phase 2B (up to and including 2,400,000 square feet of non-residential, non-hotel uses, 720 hotel rooms and 1,400 residential dwelling units). Prior to issuance of the zoning permit for the 1,700,001st square foot of non-residential, non-hotel uses, the 501st hotel room, or the 1,069th residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its then current northerly terminus across the Property as shown on the Concept Plan, with a bridge across Broad Run, and, subject to right-of-way being provided by others, connecting to the eastern terminus of Russell Branch Parkway. Such road extension shall be four-lane divided roadway and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 26

required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals are not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 3, if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 3 if warranted by VDOT at that time.

6. Transportation Improvements for Transportation Phase 3 (full buildout). Prior to issuance of the zoning permit for the 2,400,001st square foot of non-residential uses, non-hotel uses and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Gloucester Parkway: Dedicate right-of-way, if and as necessary, and construct an extension of Gloucester Parkway, except any portion already constructed or committed to be constructed by others, from Pacific Boulevard across the Property, with a bridge across Broad Run, as shown on the Concept Plan, and, subject to right-of-way being provided by others, connecting to Loudoun County Parkway. Such road extensions shall be four-lane divided roadways and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 27

standards, together with deceleration, acceleration and turn lanes as required by VDOT.

b. Bicycle Trail – Gloucester Parkway: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the north side of Gloucester Parkway, and construct a ten (10) foot wide multi-purpose trail within the public right-of-way and/or within such public access easement and along the portion of Gloucester Parkway constructed pursuant to the preceding paragraph, which shall connect to the bicycle trail located on the west side of Pacific Boulevard.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at this intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The warrant study shall be submitted to VDOT and the County with the first final site plan submitted to the County for development in Transportation Phase 3.

E. Acquisition of Off-Site Right-of-Way/Easements.

1. In addition to dedicating right-of-way and easements on the Property, the Owner shall make a good faith effort to acquire off-site right-of-way or easements necessary for the construction of the off-site portions of Pacific Boulevard and Gloucester Parkway proffered herein. Where, despite such good faith efforts, right-of-way and/or easements necessary for construction of such off-site portion of Pacific Boulevard and/or Gloucester Parkway cannot be obtained either (i) voluntarily through donation or proffer to the County, or (ii) through purchase by the Owner at a fair market value price, the Owner shall request VDOT and/or the County to acquire such right-of-way and/or easements by appropriate eminent domain proceedings by VDOT and/or the County, with all costs associated with the eminent domain proceedings to be borne by the Owner, including but not limited to, land acquisition costs. The initiation of such eminent domain proceedings is solely within the discretion of VDOT and/or the County. It is understood that the County will attempt to obtain the off-site right-of-way for both the extension of Pacific Boulevard and the extension of Gloucester Parkway, as a condition of County approvals of land use applications for the properties across which such extensions will be constructed. The Owner shall not be required to pay any amounts for such right-of-way to the extent the County obtains such right-of-way as a condition of County approvals of land use applications.

2. If the necessary right-of-way and/or easements cannot be acquired voluntarily and the County and/or VDOT choose not to exercise the right of eminent domain within six (6) months of a written request by the Owner, the Owner shall be released from the obligation to acquire such right-of-way. If the County and/or VDOT elect to defer its exercise of eminent

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 28

domain, then the Owner's Proffer requiring such acquisition or construction shall likewise be deferred.

3. Notwithstanding the commitments in Proffer III.D. above, the Owner shall not be prevented from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles, grading permit, zoning permit, building permit, and occupancy permit) for the Property, nor from commencing construction on the Property, during the pendency of any eminent domain proceedings initiated pursuant to this Proffer, nor any deferral of the County's and/or VDOT's exercise of eminent domain pursuant to Proffer III.E.2. above.

F. Traffic Signalization.

When required by the phasing provisions set forth in the paragraphs above, the Owner shall prepare a signal warrant analysis for the installation of the traffic signals identified in each respective Transportation Phase. Pursuant to said signal warrant analysis, and if warranted by VDOT, the Owner shall design and install traffic signalization at the respective intersections when required by the schedule above. In the event a signal has not been warranted by VDOT when the Owner desires to proceed with the respective phase of development on the Property, the obligation to design and install such signal shall be deferred to the beginning of the next phase of development on the Property. In the event a signal proffered above has not been warranted at the beginning of Transportation Phase 3 of development on the Property, the Owner shall make a cash contribution to the County for the cost of the design and installation of such traffic signal. Such cash contribution shall be made prior to issuance of the first zoning permit for a use in Transportation Phase 3 of the development. The amount of the cash contribution shall be based on an estimate provided to the County by a certified engineer; however, in no case shall the contribution exceed ~~One~~Two Hundred ~~Sixty~~Seventy-Five Thousand and 00/100 Dollars (~~\$160,000.00~~275,000.00) for each traffic signal. This maximum limit on said contribution shall escalate in accordance with the Consumer Price Index ("CPI") from a base year of 2008:2009.

G. Cash Equivalent Contribution.

Unless otherwise provided in these Proffers or unless such improvements are provided in cooperation with others by private agreement or subject to the commitments of other zoning applications, the Owner agrees that, in the event any of the transportation improvements described above in Proffer III.D., except (i) the bridge crossings and off-site extensions of Gloucester Parkway and Pacific Boulevard, and (ii) the portions of Pacific Boulevard and Gloucester Parkway constructed by VDOT with the construction of the Route 28/Nokes Boulevard/Gloucester Parkway interchange, are constructed or bonded for construction by others prior to bonding for construction by the Owner, the Owner shall contribute to the County or its designee, for each such improvement provided by others, an amount equal to the cost of constructing such transportation improvements described above in Proffer III.D. in lieu of actual

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 29

construction of each such improvement provided by others. For the purposes of determining the in-lieu-of contribution, (i) the actual cost of the respective improvements will be used if available; if not, the value of the bond estimate will be used, and (ii) construction costs shall be deemed to include all engineering, surveying, bonding, permit fees, utility relocation, and other hard costs of construction based on paid invoices. Such contribution in lieu of actual construction shall occur at the time the Owner would otherwise have been required by these Proffers to bond or construct such improvements. As determined by the County, such contribution shall either be used to reimburse the party who constructed such improvements, or for regional roadway or transit improvements in the vicinity of and for the benefit of the Property.

H. Highway Noise Mitigation.

Concurrently with the filing of the first site plan or construction plans and profiles for the Property, whichever is first in time, the Owner shall submit an acoustical analysis for the Property to determine which areas of the Property may be adversely impacted by highway noise generated along (i) the Route 28 (Sully Road)/Pacific Boulevard frontage, and (ii) the Gloucester Parkway frontage. With each subsequent site plan for a residential, hotel, or ~~office~~**employment** use on the Property, the Owner shall demonstrate compliance with the aforementioned acoustical analysis with the goal of mitigating material adverse highway noise impacts in the noise sensitive areas of the Property, such that (a) interior noise levels do not exceed 50 dbA for residential and hotel units, (b) exterior noise levels at the façade of office buildings do not exceed 70 dbA, and (c) outdoor passive and active recreation areas do not exceed 65 dbA. Compliance with the acoustical analysis shall demonstrate the methods that shall be incorporated into the site and building design in order to reduce noise levels for residential, hotel and office uses in accordance with the noise abatement criteria specified above:

I. Temporary Community Parking Lot/Transit Contribution. ~~— If bus transit service is provided along Pacific Boulevard to serve the Property, then at the time of issuance of the zoning permit for the 701st residential dwelling unit constructed on the Property, the Owner shall make available to the County for a period of five (5) years (from the date of issuance of the permit) a parking lot to be used by the County as a commuter parking lot to support the County's transit service during the five (5) year period. The Owner shall provide appropriate parking lot lighting for security purposes for such temporary parking lot. In addition, if bus transit service is provided along Pacific Boulevard to serve the Property, then at the time of issuance of the zoning permit for the 425,001st square foot of office use on the Property, the Owner shall make a one-time cash contribution to the County in the amount of Four Hundred Seventy Five Thousand and 00/100 Dollars (\$475,000.00) to be used by the County to support such transit service to serve the Property and the surrounding area. If, at the time the Owner reaches either or both of the referenced thresholds (701 residential dwelling units/425,001st square feet of office use), bus transit service is not then being provided along Pacific Boulevard to serve the Property, the Owner shall not be required to provide the respective contribution(s) unless~~

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 30

~~and until such bus transit service is so provided, at which time, the Owner shall make the respective contribution(s) within thirty (30) days of the commencement of such bus transit service. Such contributions shall be escalated in accordance with the changes in the Consumer Price Index ("CPI") from a base year of 2009 (see Proffer VIII.C.),~~ **with preference given to passive measures, such as landscaping and berming, to the extent practicable.**

I. J. Bus Shelters.

Within six (6) months of the date of commencement of public bus service to the Property, the Owner shall construct two (2) bus shelters **on the Property** along Pacific Boulevard. **Said bus shelters shall be in addition to those required in accordance with SPEX 2008-0054.** The Owner shall coordinate the **design and** location of these bus shelters with the Office of Transportation Services or other appropriate County agency. The commitment in this Proffer to construct bus shelters shall terminate twenty (20) years after issuance of the zoning permit for the Property, if no public bus service to the Property has been established during such twenty (20) years; provided upon such termination, the Owner shall contribute to the County a cash contribution in the amount of the estimated cost of two (2) bus shelters to be used by the County to construct such bus shelters in the future. The bus shelters shall be maintained by the Owners Association established pursuant to Proffer VII. The Owner shall coordinate the design and location of such bus shelters with the Office of Transportation Services at the time of site plan review.

I. K. Transportation Demand Management Program.

Prior to issuance of the first zoning permit for an office or residential use on the Property, the Owner shall implement a Transportation Demand Management ("TDM") program whose objective is to reduce peak hour vehicle trips to and from the site. The means to achieve this objective over the build-out period for this site may vary from time to time as knowledge is gained about specific factors and as the area and region develop. Elements of this program shall include, but shall not necessarily be limited to, the following:

1. Identify an Employer Transportation Coordinator (ETC) for each ~~office~~**employment** or residential building to serve as the TDM contact with the Loudoun County Office of Transportation Services ("OTS"). ETCs shall promote and encourage commuting alternatives in cooperation with other private and public TDM efforts or Transportation Management Associations. ETCs shall meet with OTS Staff to clarify commuting options to the site and develop promotions and programs in support of established TDM goals.

2. Conduct initial and biennial employee commute surveys **of employees of employment buildings and residents of residential buildings** to benchmark and measure progress toward the reduction of vehicle trips and vehicle emissions.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 31

3. Provide a minimum of five percent (5%) of total parking spaces for each ~~office~~**employment** or residential building as preferred parking spaces for (a) carpool/vanpool vehicles, (b) fuel efficient vehicles, or (c) car sharing vehicles.

4. Promote flexible, compressed, or telework schedules for on-site employees **and residents**.

5. Support transit service by encouraging all employers to provide qualified transportation fringe benefits, as allowed under Section 132(f) of the Internal Revenue Code.

6. Construct and maintain permanent public information displays in all ~~office~~**employment** or residential buildings for distribution of alternate commute information, including transit schedules, park-and-ride lot maps, rideshare programs and telework. ~~In addition, encourage a presence on each tenant/employer's intranet site detailing alternate modes of transportation and other travel reduction measures.~~

7. Install secure weather-protected bicycle storage facilities or bicycle racks for a minimum of twenty (20) bicycles for each ~~office~~**employment** or residential building. Such bicycle storage facilities and/or bicycle racks shall be located in a convenient location for use by employees and/or residents and shall be installed prior to issuance of the occupancy permit for each respective building.

8. Provide accessible shower facilities in all ~~office buildings~~**employment buildings that are a minimum of four stories or fifty (50) feet in height and containing greater than 100,000 square feet of non-residential uses.**

9. Provide information on office employers' **and residential buildings'** intranet or internet sites detailing alternative modes of transportation and other travel reduction opportunities.

10. Submit to OTS biennial travel reduction plans outlining strategies for reducing vehicles trips to and from the Property during peak hours.

K. Transit Service Contribution.

At the time of issuance of each residential zoning permit for the Property, the Owner shall make a one-time cash contribution to the County in the amount of Five Hundred Seventy-Five and 00/100 Dollars (\$575.00) for each of the market rate dwelling units developed on the Property. Such contributions shall be used, in the discretion of the Board of Supervisors, to fund capital equipment for transit services that serve the Property. Said contributions shall be escalated in accordance with the changes in the Consumer Price Index ("CPI") from a base year of 2009 (see Proffer VIII.C.).

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 32

L. EmployeeKincora Shuttle.

Upon issuance of zoning permits for greater than 1,500,000 square foot of non-residential, non-hotel uses (which threshold shall include the non-residential uses constructed on the PD-IP Portion) and if there is adequate demand as determined by the County Office of Transportation Services, the Owner shall provide a private shuttle service during regular business hours utilizing vehicles with a minimum capacity of twenty (20) persons for the transport of employees and residents between the uses on the Property with the intent of connecting those non-residential uses located in Land Bays L, N and Q with the remaining uses on the Property ~~and connecting the office buildings on the Property with the nearest transit facility, provided there are uses located in Land Bays L, N and Q that generate ridership demand deemed sufficient for such shuttle service.~~ In addition, until such time as regional transit service is available to the site, the Applicant shall provide such shuttle service to the nearest park-and ride facility or regional transit facility.

IV. RECREATION AND HISTORIC

A. Recreation.

1. The Owner shall construct a bicycle and pedestrian circulation system consisting of sidewalks and trails on the Property in substantially the same location as illustrated on Sheets 15 and 16 of the Concept Plan. Sidewalks need not be constructed in locations where asphalt trails are constructed to provide the pedestrian circulation linkage depicted on Sheets 15 and 16 of the Concept Plan. Sidewalks shall be constructed on both sides of Roads 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 as depicted on Sheet 16 of the Concept Plan and shall include conveyance of appropriate public access easements. Sidewalks and trails shall be constructed in phases concurrently with the development of land in areas adjacent to such sidewalks and trails. Unless constructed in the public right-of-way, sidewalks shall be subject to a public access easement of a minimum of six (6) feet in width, asphalt trails shall be subject to a public access easement of a minimum of twelve (12) feet in width, and all other trails shall be subject to a public access easement of a minimum of eight (8) feet in width. Trails constructed within the major floodplain west of Pacific Boulevard or in the River and Stream Corridor 50-foot Management Buffer shall be constructed of pervious surfaces and with raised boardwalk crossings where such trails cross jurisdictional waters and/or wetlands as depicted in the section exhibits provided on Sheet 15 of the Concept Plan. Trails constructed outside of such major floodplain and River and Stream Corridor 50-foot Management Buffer shall be constructed of asphalt and/or such pervious surfaces, boardwalks and raised walkways as may be permitted, in accordance with the applicable provisions of the FSM. Unless a different minimum width is established for a specific trail elsewhere in these Proffers, asphalt trails shall be a minimum width of ten (10) feet. All other trails shall be a minimum width of six (6) feet. Sidewalks shall be constructed of concrete, brick, concrete or brick pavers, marble or other material typically used for sidewalks in office parks and mixed-use centers, in accordance with the Design Guidelines and applicable

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 33

provisions of the FSM, and shall be a minimum width of four (4) feet for private sidewalks, and, subject to VDOT approval, a minimum width of five (5) feet for public sidewalks.

2. As each portion of the Property receives record plat approval or site plan approval, whichever is first in time, the Owner shall develop and dedicate to the Owners Association provided in Proffer VII, the SWM/BMP Ponds, the trails, civic spaces and open space areas identified in such portion, all as illustrated on the Concept Plan. The declaration of covenants, conditions and restrictions recorded against the Property (the "OA Covenants") shall require the establishment of maintenance procedures and sufficient funding so that the Owners Association will have the financial ability to maintain such facilities and open space areas in a decent, clean, safe and healthy condition for use by residents of the Property.

B. Heron Rookery Observation Platform.

Concurrently with construction of the trails within the floodplain area within the 1,400 foot Rookery Radius as depicted on the Concept Plan, the Owner shall construct an observation platform of not less than 400 square feet from which users of the trail can view the heron rookery. Such observation platform shall be a component of the trail system referenced in Proffer IV.A. and shall be maintained by the Owners Association, unless and until such time as the floodplain and/or the trail and observation platform are dedicated to the County. Such observation platform shall be located outside of the 700 foot Rookery Radius as depicted on the Concept Plan. The Owner reserves the right to install an impervious trail connection from Land Bay C to the observation platform, notwithstanding the limitations on types of trails set forth in Proffer II.D.

C. Dedication of Floodplain Area and Trails.

Within six (6) months of the completion of all work associated with the construction, maintenance and certification by the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, of any wetlands mitigation and/or wetlands mitigation banking areas the Owner develops in the Broad Run floodplain, the Owner shall dedicate to the County the approximately ~~160~~**162.11**-acre area west of Pacific Boulevard within the major floodplain for Broad Run as ~~such major floodplain area is depicted on~~**shown on Sheets 34 and 35 of** the Concept Plan, at no charge, for use as a natural **area for public passive park purposes.** Prior to such dedication, all trails located west of Pacific Boulevard and within the major floodplain for Broad Run as depicted on the Concept Plan shall be subject to public access easements to permit use by the public and shall be maintained by the Owners Association. In the event the County desires dedication of the wetlands mitigation and/or wetlands mitigation banking areas prior to the certification by the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, the Owner shall dedicate to the County such areas within six (6) months of a request by the County; provided the Owner retains (i) ownership of all wetlands mitigation banking credits and the County assumes responsibility for maintenance of such wetlands mitigation areas until such areas are certified as completed by the Army Corps of Engineers

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 34

and/or the Virginia Department of Environmental Quality, and (ii) the right to use and maintain, as may be required by these Proffers, all trails in such dedication area.

D. Broad Run Toll House.

At such time as the Applicant is obligated under this Proffer Statement to construct the extension of Pacific Boulevard across Broad Run and connecting to Russell Branch Parkway, if (i) such extension of Pacific Boulevard will not permit the preservation of the Broad Run Toll House in its current location on Loudoun County GPIN Parcel 040-39-8734, and (ii) the Applicant determines, in consultation with the Office of Historic Preservation ~~and~~ the Department of Parks and Recreation and the Loudoun County Historic District Review Committee, that it is feasible to relocate the Broad Run Toll House from its current location to a suitable location on the Property, the Applicant shall pursue the relocation of the Broad Run Toll House to such alternative location, at the Applicant's sole expense. Such relocation shall be subject to applicable provisions of Section 6-1902 of the Zoning Ordinance and in conformance with applicable state and federal requirements regarding the relocation of such resource.

V. DESIGN

A. Design Guidelines and Architectural Review.

The Property shall be developed as a unified community consistent with the Design Guidelines attached to this Proffer Statement as Exhibit D. The Owner shall require the Owners Association created pursuant to Proffer VII to establish a Design Review Committee consisting of owners of all or portions of the Property. The Design Review Committee shall develop appropriate review procedures to ensure the Property is developed consistent with the Design Guidelines. The Owners Association shall establish the Design Review Committee within three (3) months of the creation of the Owners Association, and all subsequent site and building plans shall be reviewed by the Design Review Committee for consistency with the Design Guidelines.

B. Boulevard Entrances.

Road 1 and Road ~~2 and Road 6, 2,~~ as identified on the Concept Plan, shall be designed and constructed, with landscaped medians eight (8) feet in width, to provide attractive boulevard entrances consistent with the cross-section ~~provided~~shown on Sheet 18 of the Concept Plan; provided such landscaping in the medians shall not obstruct necessary sight distances for traffic. A project identification feature comparable in size and quality to the design shown on Sheet 21 of the Concept Plan shall be provided at the entrance from Pacific Boulevard to ~~Road 2~~ in the southeast corner of Land Bay J identified on Sheet 11 of the Concept Plan.

C. Alleys.

Site plans shall depict the location of alleys that provide access to the interior of each land bay.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 35

D. Demonstration of Square Footage Compliance.

With the filing of each site plan, the Owner shall provide a running tabulation which presents proposed and approved square footage as follows: (i) total overall site development within Kincora; (ii) total non-residential use by category proposed and residual amount available; (iii) total number of hotel rooms proposed and constructed; (iv) total non-residential use versus residential use; and (v) total amount of civic space. Such tabulation shall demonstrate compliance with the square footage limitations set forth in these Proffers and with the tabulation provided on Sheet 13 of the Concept Plan.

E. Screening of Internal Surface Parking Areas.

~~Surface parking areas on the Property shall be screened from Pacific Boulevard with landscaping and a berm on the west side of Pacific Boulevard, a minimum of 2.5 feet in height and comparable in size and quality to the Typical Pacific Boulevard Section identified on Sheet 18 of the Concept Plan.~~ Surface parking areas shall be screened from the internal private streets with landscaping and walls and/or other streetscape elements comparable in size and quality to the examples provided on ~~Sheet~~Sheets 19 and 19A of the Concept Plan and in Exhibit G, for the purpose of buffering headlight glare and other visual impacts of surface parking.

F. Structured Parking.

At full build-out, at least fifty percent (50%) of the required parking spaces will be located within parking structures. Parking structures that may be visible from public view shall be treated with individual design elements that may include, but not to be limited to, storefront appearance, false fenestration, glass, colored or stamped concrete panels, or any combination thereof, or other architectural treatment for the purpose of blending the parking structure architecture with that of surrounding buildings. **In the event that areas planned for structured parking are used as surface parking areas prior to full build-out, those surface parking shall be screened as indicated in Proffer V.E. above.**

G. Loading Docks/Dumpster Pads.

All refuse collection and loading areas on the Property shall be oriented so as to have minimum visibility from public roads and residential uses. If such refuse collection and loading areas are not substantially blocked from view from public roads and residential uses, they shall be treated with architectural elements or decorative fencing and landscaping so as to be screened from public roads and residential uses.

H. Rooftop Mechanical Units.

Any mechanical units placed on the rooftops of buildings on the Property shall be screened by architectural features compatible with building facade architecture.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 36

I. Building Entrances.

Unless deemed unfeasible in order to comply with federal security guidelines, ~~all buildings~~each building constructed on the Property shall be constructed with its principal entrance oriented towards the street, ~~pedestrian pathways, plazas, parks, or other public areas~~ on which it fronts.

Pedestrian access shall be provided from parking areas to the principle entrances of all buildings constructed on the Property. The Owner shall ensure that each building can be accessed from adjacent parking areas via a demarcated pedestrian pathway.

J. Streets, Streetscaping and Landscaping.

1. Street Design. Streets will generally be designed and constructed in a rectilinear pattern of collector roads, local access roads, streets, and alleys, with streets generally terminating in other roads and streets. All private streets, sidewalks and trails shall be consistent with the typical road sections provided on Sheets 17 and 18 of the Concept Plan; provided the Owner reserves the right to apply for and obtain approval of any waivers permitted by the Zoning Ordinance or the FSM.

2. Street Trees. Street trees on the Property will be planted in accordance with County criteria or as modified by these Proffers, and the Owner shall utilize, to the maximum extent feasible, trees that develop an overhead leaf canopy along the streets.

3. Private Streets. As modified by these Proffers, all private streets developed on the Property shall be owned and maintained by the Owners Association with appropriate covenants, restrictions and assessments. Private streets shall be subject to County review and approval at the time of applicable subdivision and site plan approvals, and shall be designed and constructed in accordance with the standards of the FSM applicable at the time such private streets are submitted to the County for approval. Private streets shall be designed to be comparable in scale to buildings to which they relate so that they contribute to the sense of a well designed village or neighborhood.

4. Streetscape Plan. The Owner shall submit a streetscape plan for each land bay with the initial site plan submission in each respective land bay. The streetscape plans will conform with County requirements, but shall include (i) all landscape buffer plans for all buffer areas and (ii) deciduous tree plantings (2 1/2" - 3.0" caliper) at an average of forty-four (44) feet on center where on-street parking is provided and thirty-five (35) feet on center where on-street parking is not provided. These trees may be clustered where appropriate. Landscaping along the public streets shall be provided at the time each lot along the street is developed and may be supplemented with landscaping in addition to what is required by the Zoning Ordinance, at the Owner's option.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 37

5. Landscaping. Individual building and parking areas on the Property shall be landscaped in a manner that is coordinated, as to plant material, with the streetscape plan along the public streets. The landscaping within the parking areas will consist, primarily, of trees which provide shade or are capable of providing shade at maturity.

6. On-Street Parking. The Owner may provide some of the off-street parking spaces required by the Zoning Ordinance as on-street parking spaces within 400 feet of the subject principal use as permitted by the Zoning Ordinance. All on-street parking spaces shall be provided in accordance with the Zoning Ordinance and applicable VDOT and County standards.

7. Block Sizes. Any block longer than six hundred (600) feet shall contain a mid-block break, such as, without limitation, a plaza, pocket park, tot lot, village green, flower garden, eating/picnic area, seating area, substantial hotel entrance plaza, or comparable passive use.

K. Lighting.

Lighting on the Property shall be designed and constructed to minimize light trespass, specifically:

1. Spillover light onto adjacent properties shall not exceed one quarter foot-candle.
2. All exterior light fixtures shall be "full cut-off outdoor lighting fixtures" as defined by the Illuminating Engineering Society of North America (IESNA). Light shall be directed inward and downward toward the interior of the Property, away from public streets (except street lights) and the nearby residential properties.
3. Except for street and parking lot lights installed in accordance with applicable provisions of the FSM, the maximum height of any freestanding exterior lighting fixtures shall be 18 feet. Height shall be measured from the ground surface to the bottom of the lighting fixture.

L. Specific Land Bay Design Obligations.

1. Building Setbacks. Except as otherwise specifically indicated in these Proffers, buildings shall be located with a maximum front yard set back of twenty-five (25) feet from the adjacent road, as measured from the front of the curb. This setback requirement shall not apply where buildings front along sidewalk cafes, outdoor plazas, courtyards, terraces, hotel entrances/plazas and other pedestrian-oriented civic or open space.

Buildings fronting on Route 28 shall be set back a minimum of fifty (50) feet and a maximum of one hundred and fifty (150) feet from the edge of the Route 28 right-of-way line. Surface parking located between Route 28 or Pacific Boulevard and any buildings

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 38

located adjacent to Route 28 or Pacific Boulevard, respectively, shall be limited to no more than two (2) travel aisles and two (2) rows of parking. Such surface parking shall be screened from Route 28 and Pacific Boulevard with landscaping and a berm comparable in size and quality to the Typical Pacific Boulevard Section identified on Sheet 18 of the Concept Plan.

2. Residential Open Space Amenities. Each building containing residential uses shall be located within 300 feet of an open space area at least 2,500 square feet in size. The distance shall be measured from the point on the building closest to such open space area. Open space areas may include tot lots, pocket parks, seating areas, pathways and similar passive recreational amenities.

3. Residential Uses in Land Bay F. Any residential uses located in Land Bay F shall only be located within two hundred and fifty (250) feet of the Road 8 frontage of Land Bay F.

4. Retail Sales Establishments in Land Bays West of Pacific Boulevard. Retail sales establishments located within multi-story office buildings that front on Pacific Boulevard in land bays west of Pacific Boulevard shall be oriented to the west and not toward Pacific Boulevard. No retail sales establishments shall be oriented toward Route 28.

5. No Freestanding Non-Hotel Commercial Uses in Land Bay Q or Land Bay N. There shall be no freestanding non-hotel commercial uses in Land Bay Q or Land Bay N.

6. Screening of Interchange. The Property shall be screened from the Route 28/Nokes Boulevard Interchange with landscaping and a berm along the perimeter of the interchange, a minimum of 2.5 feet in height and comparable in size and quality to the Typical Pacific Boulevard Section identified on Sheet 18 of the Concept Plan.

7. Terminus of Road 8 and Road 9. At full build-out of the Property, buildings shall be constructed opposite the southern terminus of Road 8 (in Land Bay H) and the northern terminus of Road 9 (in Land Bay E) as illustrated on Sheet 30 of the Concept Plan.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 39

VI. EMERGENCY SERVICES

A. Fire and Rescue Site.

~~Within~~**If within two (2) years of the approval of this rezoning application ZMAP 2008-0021, the County awards construction of a fire and rescue and/or sheriff substation facility on the Property pursuant to the pending Public-Private Education and Infrastructure Act process for such facility [DO WE HAVE A SPECIFIC REFERENCE NUMBER?], then within** sixty (60) days of the date of final approval of this rezoning application (ZMAP 2008-0021)**such award is made**, the Owner shall dedicate and convey to the Board of Supervisors a minimum of five (5) buildable (i.e., non-floodplain, ~~non~~-wetlands, ~~non~~-very steep slopes) acres located in Land Bay N, as identified on ~~Sheet 29~~**Sheets 9 and 10** of the Concept Plan as "Public Use Site," to be used for a County fire and rescue, sheriff substation and/or other governmental purposes, except the following: animal shelters (as distinguished from and not to include pet adoption centers), detention facilities, solid waste facilities (as distinguished from and not to include collection bins for drop off of pre-sorted recyclable materials), day labor centers, equipment and material storage yards and publicly owned or group living residential uses. Any governmental use that requires a special exception shall be permitted with the applicable special exception approval, but without requiring a proffer or zoning concept plan amendment. The Owner shall permit construction by the County **and/or sheriff substation facility. In the event such award is made within two (2) years of the approval of this rezoning application, the Owner shall (i) permit construction** of a temporary access road across Land Bay N to such five-acre public use site until such time as access is available from Pacific Boulevard. The Owner shall ~~(i, (ii)~~ **(ii)** construct street access and sidewalks to the ~~public use site~~, and ~~(iii)~~ **(ii)** extend sewer, water, telephone, natural gas and electric service to the perimeter of the ~~public use site~~, all concurrent with the Owner's own development activities on the portion of the Property abutting the ~~public use site~~. The Owner shall not use the ~~public use~~**such five (5) acre** site for staging, dumping or similar activities prior to dedication of the ~~public use site~~ to the County pursuant to this Proffer. **The site plan for any fire and rescue and/or sheriff substation on such five (5) acre site shall be provided for comment to the Design Review Committee identified in Proffer V.A. prior to final approval by the County.**

B. Owner's Contribution.

At the time of the issuance of each zoning permit, the Owner shall make a one-time contribution of Ten Cents (\$0.10) per gross square foot of non-residential floor area and Two Hundred Fifty Dollars (\$250.00) per market rate residential dwelling unit, which shall be payable to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Such contribution shall be adjusted annually in accordance with changes to the CPI, beginning from a base year of 1988 (see Proffer VIII.C.). Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing fire and rescue services to the Property. Notwithstanding the foregoing, at

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 40

such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease, or be reduced by half if only one service is no longer provided by an incorporated volunteer company. The intent of these provisions is to support a volunteer fire and rescue system so long as it is the primary provider of fire and rescue services to the Property.

C. Sprinkler Systems.

The Owner shall require all builders to provide sprinkler systems as required by applicable building codes for each use of the Property. The Owner shall install adequate infrastructure to ensure adequate water flow and pressure for such sprinkler systems.

D. Fire & Rescue Review of Site Plans.

In conjunction with the initial submittal of each site plan, the Applicant shall also submit such site plan to Fire, Rescue and Emergency Management Planning for review and approval to ensure that the site layout provides emergency vehicles and personnel adequate access and circulation throughout the Property.

E. Emergency Access.

All buildings and parking structures shall be designed to permit adequate access and circulation of emergency personnel and vehicles.

VII. OWNERS ASSOCIATION

The Owner shall establish an Owners Association for the entire Kincora community, prior to approval of the first record subdivision plat or site plan on the Property, whichever is first in time. Membership in the Owners Association shall be required of owners of all commercial lots and residential units on the Property. The Owners Association shall have among its duties trash collection and maintenance of each of the common area amenities specified herein, including, without limitation, private streets/alleys, private parking areas, stormwater management facilities, common areas and open space, trash removal, recycling services, snow removal, private sidewalks and trails and private roads, and all responsibilities and duties specifically assigned to the Owners Association in this Proffer Statement. Nothing herein shall preclude the Owner from incorporating the PD-IP Portion into the Owners Association and/or establishing separate, sub-associations for any individual sections or land bays within the Property, with such sub-associations assuming responsibility for maintenance and other responsibilities within those individual sections or land bays; provided such separate, sub-associations shall not relieve the owners of units in the applicable sections of the Property from membership in the Owners Association for the entire Kincora community. Owners Association documents for the Property shall be submitted for review and approval by the County prior to the approval of the first application for record subdivision plat or site plan, whichever is first in time.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 41

VIII. MISCELLANEOUS

A. Existing Wells and Drainfields.

The Owner shall abandon all existing wells and septic systems located on the Property in accordance with applicable law.

B. Preliminary Soils Review.

The Owner shall prepare and submit a Preliminary Soils Review of the entire Property prior to submission to the County of the first preliminary plat, construction plans and profiles or site plan, whichever is first in time, for any section of the Property.

C. Annual Escalation.

Whenever these Proffers refer to the escalation of a proffered contribution or value in accordance with the Consumer Price Index (CPI-U) All Urban Consumers, Washington-DC-MD-VA-WV ("CPI"), unless otherwise expressly stated herein, such reference shall mean that the contribution or value shall escalate annually, beginning on January 1, 2010, and continuing each January 1 thereafter, by an amount equal to the percentage increase in the CPI over the prior year. If the U.S. Department of Labor shall ever cease publishing the CPI, the CPI, for purposes of these Proffers, shall be that index published by the Department of Labor or other U.S. government agency intended to reflect general increases in the cost of living for residents in the Washington, D.C. Standard Metropolitan Statistical Area.

D. Severability.

The Owner reserves the right to file and have accepted for review a proffered condition amendment, zoning concept plan amendment, rezoning, commission permit, zoning modification, special exception, variance or other zoning application for any portion of the Property, without having to obtain the joinder and/or consent of the owners of the other portions of the Property for which the zoning and land use approvals are not impacted by such application, provided that such application complies with the applicable submission requirements and Zoning Ordinance provisions.

E. Binding Effects.

The Owner warrants that the Owner owns all interests in the Property; that the Owner has full authority to bind the Property to these conditions; that the officer and/or manager of the Owner signing these Proffers is authorized to act on behalf of the Owner; and that these Proffers are entered into voluntarily; and that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms.

[SIGNATURES ON FOLLOWING PAGE]

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

July 23, October 5, 2009

Page 42

NA DULLES REAL ESTATE INVESTOR LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared _____, as _____ of NA Dulles Real Estate Investor LLC, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so, as the act of such company.

IN WITNESS WHEREOF, I have affixed my hand and seal this ____ day of _____, 2009.

Notary Public

My Commission Expires: _____

EXHIBIT A

CONCEPT PLAN

October 2008
July 21, 2009
October 2, 2009

EXHIBIT B
**ZONING ORDINANCE ("ZO"), FACILITIES
STANDARDS MANUAL ("FSM") AND LAND
SUBDIVISION & DEVELOPMENT ORDINANCE
("LSDO")**
MODIFICATIONS

July 23, October 5, 2009

ZONING ORDINANCE MODIFICATIONS

- A. Section 4-1356(B)(1)--Front Yard.** The Revised 1993 Loudoun County Zoning Ordinance requires that the maximum front yard in the PD-MUB District not exceed 30 feet, though a maximum front yard of 50 feet may be permitted when a courtyard, plaza, terrace, or other common area a minimum of 300 square feet is provided adjacent to the front property line.

This maximum area will be provided for uses within all Land Bays with the exception of Land Bay N. Because of the constrained physical layout of this Land Bay, a maximum front yard of 150 feet adjacent to Pacific Boulevard may be necessary. Considering the isolated application of this modification request as well as the lower elevation and proposed landscaping within the buffer area between the buildings and Pacific Boulevard, the Applicant does not believe that it will detract from the intent of the PD-MUB District.

- B. Section 4-1356(B)(3)--Rear Yard.** The Revised 1993 Loudoun County Zoning Ordinance requires that the minimum rear yard in the PD-MUB District be at least 5 feet.

The Applicant requests that rear yards of 0 feet be permitted, which is necessitated by the grid network design of streets and blocks that places buildings closer together. Regardless of this requested modification, the Applicant will ensure that necessary fire provisions are incorporated into all designs of buildings which will be verified during site plan review.

- C. Section 4-1356(C)--Building Height.** The Revised 1993 Loudoun County Zoning Ordinance permits maximum building heights of 75 feet in the PD-MUB District.

In order to fulfill the recommendations of the Revised General Plan to provide prominent buildings adjacent to Route 28, the Applicant requests that a maximum building height of 150~~160~~ feet be permitted for ~~the portion of the Property~~ buildings located along Pacific

Boulevard and Route 28 within Land Bays B, F, J, and Q. This modification will permit the construction of taller buildings fronting Pacific Boulevard and Route 28, which implements a major goal of the keynote employment district.

- D. Section 4-1358(B)(2), Section 5-1413(C)(1)(a) & Section 5-1413(C)(2)(a)--Parking Lot Landscaping.** The Revised 1993 Loudoun County Zoning Ordinance requires that a 10-foot wide landscape strip be provided between parking lots and property boundaries.

The Applicant requests that this be modified to permit landscaping strips that will be a minimum of 6 feet, which is adequate to support vegetation growth and afford proper bufferingsufficient screening of parking areas. This reduced planting area will not prohibit or impede canopy growth that will buffer parking areas from property boundaries.

- E. Section 4-1358(C)--Tree Spacing.** The Revised 1993 Loudoun County Zoning Ordinance requires that street trees be provided adjacent to all areas dedicated for vehicle usage at a density of one tree per 25 linear feet.

The Applicant proposes that this requirement be modified to permit the calculation of required street trees to be calculated, and planted, 44 feet on-center where on-street parking is provided and 35 feet on-center where on-street parking is not provided. It is the past experience of the Applicant and its consultants that trees planted according to the requested spacing is sufficient to support healthy vegetative growth. The Zoning Ordinance requirement to provide street trees at a density of one tree per 25 linear feet is not conducive to an attractive, useful and healthy streetscape. The Applicant's modification, which has been approved on other similar projects in the County, takes into account streetscapes, pedestrian corridors and parking areas that are not contemplated with the requirement of the Zoning Ordinance.

- F. Section 4-1359(D)(2)--Private Streets.** The Revised 1993 Loudoun County Zoning Ordinance permits the provision of private streets if residential uses are located within 1,200 feet of principal business uses and that 75% of the structures are multi-story mixed use structures.

Each of the residential uses will be located within 1,200 feet of a principal business use structure. ~~The majority~~Greater than 50% of buildings will be multi-story mixed-use structures, though not the 75% required by this Section. The Applicant believes that the proposed development meets the intent of the PD-MUB District and that this development will be best served by private rather than public streets within the core of the development. An Owner's Association will be created prior to the initial record plat approval that will be responsible for maintenance of the private streets.

FACILITIES STANDARDS MANUAL ("FSM") MODIFICATIONS

- A. Section 4.310(C)--General Design Requirements.** The FSM requires that road jogs with center lines offsets of less than 225 feet shall not be allowed in public and Category A private roadways.

The Applicant proposes that private streets within village portion of Kincora will be constructed with centerline offsets of a minimum of 90 feet, which is necessary to permit the type of street grid network including streetscapes that will promote pedestrian safety along these internal roads.

- B. Section 4.310(G)--General Design Requirements.** The FSM requires that roadways intersecting with a public or Category A private roadway shall have a minimum length of 50 feet between curb returns and/or curb cuts.

The Applicant proposes that the village portion of Kincora will be constructed with private streets that will have a minimum of 0' between curb returns and/or curb cuts, which is necessary to permit the type of street network that will promote, and provide protection, for pedestrian activity along these internal private streets.

- C. Section 4.330(B)(2)--Private Roadway Standards.** The FSM requires that Category A roadways shall be constructed with cross section easements that are a minimum of 6' behind the face of curb.

The Applicant proposes that the cross section easements for Category A roadways within the village portion of Kincora be permitted to be constructed with cross sections that will be a minimum of 0.5' feet behind the face of curb, which is necessary to permit the type of street network and design necessary to promote pedestrian usability while still ensuring vehicular and pedestrian safety.

- D. Section 4.330(B)(3)--Private Roadway Standards.** The FSM requires that i) Category A1, A2, A3, A4 and A5 roadways be designed with a minimum curve radius of 110, 165, 338 and 478 feet, respectively; ii) Category A2, A3, A4 and A5 roadways be designed with speeds of 25, 30 and 35 miles per hour, respectively; and iii) Category A1, A2, A3, A4 and A5 roadways be designed with sight distances of 150, 200 and 275, feet respectively.

The FSM requires that i) Category A1, A2, A3, A4 and A5 roadways be designed with a minimum curve radius of 110, 165, 338 and 478 feet, respectively – the Applicant requests that these curve radii be reduced to 50 feet; that ii) Category A2, A3, A4 and A5 roadways be designed with speeds of 25, 30 and 35 miles per hour, respectively – the Applicant requests that these design speeds be reduced to 20 miles per hour; and that iii) Category A1, A2, A3, A4 and A5 roadways be designed with sight distances of 150, 200 and 275, feet respectively – the Applicant requests that these sight distance requirements be reduced to 100 feet. The private roads within the village portion of Kincora will provide adequate vehicular circulation and promote a safe and attractive pedestrian friendly environment.

LAND SUBDIVISION AND DEVELOPMENT ORDINANCE ("LSDO")

- A. Section 1245.01(2)--Lots and Building Area.** The LSDO requires that all lots shall front on an existing or recorded public street dedicated by the subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation.

In accordance with Section 4-1359(D)2 of the Revised 1993 Loudoun County Zoning Ordinance, which permits the construction of private streets within the PD-MUB District, the village portion of Kincora will be developed with lots that will front on private streets constructed in accordance with applicable requirements of the FSM unless modified according to the conditions stated in the Proffers for this rezoning. All of the private streets will be maintained by the Owner's Association that will be created prior to occupancy of any of the buildings within the development.

JUSTIFICATION

The 336.64 acre subject property (the "Property") is located in the southwest quadrant of the intersection of Route 7 and Route 28, with Broad Run forming the western boundary. The Property is strategically sited at the crossroads of major transportation thoroughfares, both existing and proposed. The location, size and environmental features of the Property provide a unique setting for an attractive mixed-use business community that will contribute significantly toward the County's economic development and tax base expansion goals.

Approximately ~~475~~**160** acres of the Property are within the 100-year floodplain associated with Broad Run. This natural feature provides exciting recreational opportunities as well as challenging design constraints. The County's keynote employment objectives, the Property's environmental resources and the two key regional road links that cross the Property - Gloucester Parkway and Pacific Boulevard - all guided the vision for Kincora. Kincora has been designed with taller keynote office buildings along the Route 28 corridor, with a suburban-scale village center nestled between the office buildings and the expansive Broad Run floodplain. The village center will be attractive and walkable, with a variety of uses and amenities that create a distinct sense of place to support the keynote office buildings along Route 28.

To achieve this vision for Kincora, certain modifications of the requirements of the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance"), Facilities Standards Manual ("FSM") and Loudoun County Subdivision and Development Ordinance ("LSDO") are necessary. These modifications will permit development of Kincora as a vertically-integrated and pedestrian-friendly, mixed-use business community that would not be possible if the site were developed in strict conformance with these provisions of the Zoning Ordinance, FSM and LSDO.

The requested Zoning Ordinance modifications pertain to an increase in front yard and a decrease in rear yard setbacks, an increase in building height, provision of private parking lot landscaping and tree spacing requirements. The designation of the Property for "keynote employment" in the Revised General Plan seeks to locate prominent office buildings of significant height adjacent to Route 28. To achieve this vision, it is necessary to modify the maximum and minimum front and rear yard setbacks, respectively, and increase the maximum building height of the PD-MUB District to permit such an increase in building height in the portion of the Property along Route 28. Neither modifying the front or rear yard setbacks or increasing the building height will adversely affect neighboring properties. These modifications will permit a development program that will enhance this segment of the Route 28 Corridor in furtherance of the goals of the Revised General Plan. Modifications of the parking lot landscaping and tree spacing requirements are necessary to permit the streetscape scheme described in the Proffers and depicted on the Concept Plan. These modifications will provide sufficient separation between parking areas and the space necessary to promote healthy growth of street trees and plantings.

Certain modifications of private street requirements of the FSM and the LSDO are necessary to permit the private road network in the village center portion of Kincora. These FSM and LSDO modifications will allow the street grid network necessary to support the type of compact, mixed-use business community development shown on the Concept Plan. The design of the private

street network for Kincora is create a pedestrian-friendly atmosphere with street trees, multiple curb cuts, shorter curve radii and slower speeds on the private streets. In addition, the Owner's Association will be responsible for maintenance of all private streets at Kincora.

EXHIBIT C
AMENDED DEED OF OPEN SPACE EASEMENT

July 23, 2009

Document prepared by
and after recording return to:

DRAFT: July 23, 2009

Hunton & Williams LLP
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102
Attn: John C. McGranahan, Jr., Esquire

Tax Map Parcel: 042-49-0209

AMENDED DEED OF OPEN SPACE EASEMENT

THIS AMENDED DEED OF OPEN SPACE EASEMENT (this "Amendment"), dated as of _____, 2007, by and between **NA DULLES REAL ESTATE INVESTOR LLC**, a Delaware limited liability company (the "Owner"), as grantor and grantee for indexing purposes, and **BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA**, a body corporate and politic (the "Board"), as grantor and grantee for indexing purposes, recites and provides:

RECITALS

The Owner is the owner of that certain property in the Broad Run Election District of Loudoun County, Virginia described as Lot 2 of the Beco-Ray property (the "Property"), as such land is described in the deed recorded as Instrument #200509160104823 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia (the "Land Records").

A portion of the Property currently is encumbered by an open space easement running to the benefit of the Board (the "Existing Easement"), which easement is recorded in Deed Book 2314, at page 1589 among the Land Records.

The Owner and the Board desire and intend to amend the Existing Easement for the purpose of clarifying and confirming certain uses that are expressly permitted on the portion of the Property encumbered by the Existing Easement.

AMENDMENT:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Amendment of Existing Easement.** Numbered paragraphs 10 and 11 of the Existing Easement are expressly amended and restated in their entirety as follows:

10. The property **portion of the Property which is** subject to this easement (the "Open Space Property") shall not be further subdivided, **except in connection with and to the extent necessary for, the dedication of public street right-of-way for Gloucester Parkway and Pacific Boulevard along alignments consistent with the Countywide Transportation Plan.**

11. Notwithstanding any of the foregoing provisions, the Grantor expressly reserves to itself, its successors and assigns the right to:

- (a) Continue the agricultural, forestry and naturalistic uses of the Open Space Property.
- (b) Continue to hunt, fish or trap on the Open Space Property subject to relevant laws.
- (c) Improve, repair, restore, alter, remodel or replace the existing and the permitted structures with structures of similar size and purpose provided that the changes are compatible with the conservation purposes of the Open Space Property and all other provisions of this Easement.
- (d) Continue the use of the Open Space Property for all purposes not inconsistent with this Easement which use shall expressly include, **but not be limited to (i) the location, construction, maintenance and repair of existing and future utility lines and appurtenant facilities constructed pursuant to all necessary County approvals and related utility easements and shall include, (ii) use of the Open Space Property for wetlands mitigation, wetlands restoration and creation, stream restoration, wetlands and stream mitigation banking, and riparian reforestation purposes; (iii) construction of Gloucester Parkway and Pacific Boulevard along alignments consistent with the Countywide Transportation Plan; (iii) ballfields subject to prior approval by the Board or its designated agent; and (iv) the location, construction, maintenance and repair of stormwater management and/or best management practices facilities; (iv) location, construction, maintenance and use of trails.**

Except as specifically and expressly modified by this Amendment, the terms and conditions of the Existing Easements shall remain in full force and effect.

2. **Covenants Run with the Land.** This Amendment and the Existing Easement establish obligations which constitute real covenants which shall run with the land and be binding on the Owner and its administrators, executors, assigns, heirs and any other successors in title or interest.

3. **Counterparts.** This Amendment may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one and the same instrument binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

WITNESS the following signature and seal:

OWNER:

NA DULLES REAL ESTATE INVESTOR LLC, a
Delaware limited liability company

By: _____
Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me in the above jurisdiction this
_____ day of _____, 200__, by _____ as
_____ of NA Dulles Real Estate Investor LLC, a Delaware limited liability
company, on behalf of the company.

Notary Public

My Commission Expires: _____

[Signatures continue.]

WITNESS the following signature and seal:

BOARD:

**BOARD OF SUPERVISORS OF LOUDOUN
COUNTY, VIRGINIA**, a public body corporate
and politic

By: _____(SEAL)

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

The foregoing instrument was acknowledged before me in the above jurisdiction this
____ day of _____, 200__ by _____,
of the Board of Supervisors of Loudoun County, Virginia, a public body corporate and politic, on
behalf of the Board.

Notary Public

My commission expires: _____

EXHIBIT D
DESIGN GUIDELINES

June 2009

EXHIBIT E

PD-MUB DISTRICT INCENTIVES

~~July 23,~~October 5, 2009

The PD-MUB District permits a maximum FAR of 0.5, but also includes various incentives that allow increases in the maximum permitted FAR up to 1.0. As depicted on the Concept Plan and committed to in the Proffers, this rezoning satisfies the requirements for most of the incentives. In accordance with Section 4-1359(C) of the Revised 1993 Zoning Ordinance, an increase in FAR for the Property above 0.5 is justified according to the following:

- 1) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if the district size is a minimum of 100 acres.**

The proposed PD-MUB District contains 336 acres, well in excess of the 100 acre minimum; therefore an increase in FAR of 0.1 is justified.

- 2) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if structured parking is provided to satisfy at least 50% of the required parking for the district. An increase of 0.2 FAR above the maximum permitted floor area ratio may be granted if 100% of the off-street parking is provided within structured parking. Such structured parking shall be designed in a manner that is integrated with nearby building architecture to minimize visual impact.**

*Parking for Kincora will be phased with the development of the Property. At full build-out, at least 50% of the required parking necessary to support the uses will be provided through a combination of below and above grade parking structures. Above grade parking structures will be designed in a manner that is harmonious with the overall architectural scheme at Kincora. (See Proffer V.F.) Therefore, an increase in FAR of 0.1 is justified. **This additional intensity will not be available to the Owner until a site plan is submitted confirming that 50% of the total required parking will be provided as structured parking.***

- 3) **The board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least 10% of the dwelling units provided are affordable to households earning up to 100% of the Washington Area Median Income (AMI), are located in vertically mixed buildings, and that covenants are**

recorded in favor of the County to maintain such affordability for a minimum period of 15 years.

*The Owner is committed to providing 16.25% of the total number of dwelling units constructed within Kincora as affordable to persons earning up to 100% of the AMI. This will be accomplished through the provision of a combination of affordable dwelling units (available to persons earning up to 70% of the AMI) and **other unmet housing needs programs** (workforce dwelling units) (available to persons earning up to 100% of the AMI). Affordable dwelling units will be provided in accordance with the requirements of the Revised 1993 Loudoun County Zoning Ordinance. The balance of this commitment will be composed of workforce dwelling units. (See Proffers I.D. and I.E.). Therefore, an increase in FAR of 0.1 is justified. **This additional intensity will not be available to the Owner until a site plan is submitted confirming that at least 10% of the total number of dwelling units will be made available to persons earning up to 100% of the AMI.***

- 4) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least one of the following uses is provided. In addition, the floor area of such use will be excluded from the FAR calculations:**
- (a) **Hotel, full-service to include a sit-down restaurant, meeting space, and at least two of the following in house services: exercise room, room service, or concierge service.**
 - (b) **Adult day care facility.**
 - (c) **Theater, indoor, limited to live performances.**

*Kincora proposes to include at least one full-service hotel, as well as an indoor theater for the performing arts. (See Proffers I.B.3. and I.G.). Therefore, an increase in FAR of 0.1 is justified, and the floor area for such uses will be excluded from the FAR calculations for the Property. **This additional intensity will not be available to the Owner until a site plan is submitted proposing the construction of either a full-service hotel or the performing arts center.***

- 5) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if a local shuttle system or other public transportation improvement is provided by the applicant/landowner.**

*The Owner proposes to provide a local shuttle service that will provide transportation services for employers within Kincora to destinations in the vicinity, including Dulles Town Center. (See Proffer III.L.). In addition, the Owner has proffered contributions for ~~a temporary community parking lot and~~ transit service and bus shelters to be provided along Pacific Boulevard, which will accommodate public bus service for the region once routes are established in the Route 28 corridor. (See Proffers III.I. and III.JK.). Therefore, an increase in FAR of 0.1 is justified. **This additional intensity will not be available to the Owner until a site plan is submitted with the requisite***

amount of development per these Proffers that requires the implementation of a shuttle service.

- 6) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio when at least 2 contiguous lots that existed at the time of adoption of this Ordinance with each having frontage on an arterial road, submit a single zoning map amendment application to a PD-MUB district with the CDP showing no direct access onto an arterial road from any such lot.**

The Property has frontage along an arterial road (Route 28). The rezoning application proposes to remove all existing access points onto Route 28, and will provide access to Route 28 via the Route 28/Nokes Boulevard interchange that is currently being constructed on the Property. Therefore, an increase in FAR of 0.1 is justified.

Section 4-1359(D) of the Revised 1993 Loudoun County Zoning Ordinance permits additional incentives, which include:

- 1) **Areas within the FOD can be included when calculating the permissible FAR and residential density if a 25 foot natural buffer is maintained from the edge of the FOD.**

Floodplain associated with Broad Run is located on the Property. The Owner proposes to preserve and protect this area. The Applicant proposes natural surface trails ~~and a potential~~ wetlands and stream mitigation bank and riparian reforestation activities in the floodplain, which are permitted uses in the FOD. The 50 foot management buffer adjacent to the FOD will be maintained in its natural state, with the exception of necessary utility crossings. Therefore, inclusion of the FOD in the FAR and residential density calculations is justified.

Kincora satisfies all the incentives described above. Therefore, the maximum FAR potential for the PD-MUB District at Kincora should be established at 1.0, inclusive of the FOD portion of the Property. Notwithstanding the maximum 1.0 FAR potential of the Kincora PD-MUB District, the Proffers and Concept Plan limit the development allowed on the Property to a maximum FAR of 0.37 (5,392,025 0.39 without the exclusion of floodplain and 0.79 with the floodplain excluded (5,517,025 square feet). The Owner shall not be permitted to exceed the maximum density and intensity of use allowed in the Proffers and on the Concept Plan unless a future application for a Zoning Concept Plan Amendment ("ZCPA") to increase those proffered limitations is approved.

EXHIBIT F
BROAD RUN RESTORATION CONCEPT PLAN

June 2009
July 8, 2009

EXHIBIT G

CENTRAL PLAZA AND DESIGN ILLUSTRATIONS

KINCORA
(ZMAP 2008-0021)

PROFFER STATEMENT

February 5, 2009
July 23, 2009
October 5, 2009



KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page i

Table of Contents

	<u>Page</u>
I. LAND USE	1
A. Concept Plan.....	1
B. Uses, Maximum Density/Intensity of Use and PD-MUB Minimum Use Percentages.....	2
1. Employment Uses.....	2
2. Commercial Uses	2
3. Hotel	3
4. Residential Uses	3
5. Public/Civic/Institutional Uses.....	3
6. Parks and Open Space	3
7. Site Plan/Record Plat Tabulations.....	4
C. Route 28 Prepayment of Taxes.....	4
D. Affordable Dwelling Units.....	4
E. Unmet Housing Needs (Workforce Housing) Units.....	4
F. Linkage of Office and Other Non-Residential Uses to Residential Development.	5
G. Center for Performing Arts and Related Civic Uses.....	6
H. Central Plaza.....	7
I. Building Heights.....	7
J. Vertically Mixed Building Design.....	7
K. Zoning Modifications.....	7
L. Floodplain Boundaries.	8
II. ENVIRONMENTAL	8
A. Heron Rookery.	8
B. Central Water and Sanitary Sewer.....	8
C. Limits of Clearing and Grading.....	9
D. Wetland and Stream Mitigation, Riparian Preservation and Reforestation, and Wetland Mitigation Bank.	9
E. Open Space Easements.	9
F. Tree Conservation.....	10
G. River and Stream Corridor Resources (RSCRE) Reforestation.	11
H. Stormwater Management Best Management Practices (SWM/BMPs)/Low Impact Development Techniques (LIDs).	12
I. Stormwater Management Filter/Cartridge Maintenance.....	12
J. Broad Run Water Quality Monitoring	12
K. Trails Located Within the Floodplain.....	13
L. Harvesting Trees from Cleared Areas.....	13
M. Green Building Practices.....	13

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page ii

III.	TRANSPORTATION.....	14
A.	Road Network.....	14
B.	Pacific Boulevard Alignment.....	15
C.	Construction of Public Roads With a CDA.....	15
1.	Gloucester Parkway.....	15
2.	Pacific Boulevard.....	16
D.	Construction of Public Roads Without a CDA.....	17
1.	Uses In Land Bay Q.....	17
2.	Transportation Improvements for Transportation Phase 1A.....	17
3.	Transportation Improvements for Transportation Phase 1B.....	18
4.	Transportation Improvements for Transportation Phase 2A.....	19
5.	Transportation Improvements for Transportation Phase 2B.....	20
6.	Transportation Improvements for Transportation Phase 3.....	21
E.	Acquisition of Off-Site Right-of-Way/Easements.....	22
F.	Traffic Signalization.....	23
G.	Cash Equivalent Contribution.....	23
H.	Highway Noise Mitigation.....	24
I.	Bus Shelters.....	24
J.	Transportation Demand Management Program.....	25
K.	Transit Service Contribution.....	26
L.	Kincora Shuttle.....	26
IV.	RECREATION AND HISTORIC.....	26
A.	Recreation.....	26
B.	Heron Rookery Observation Platform.....	27
C.	Dedication of Floodplain Area and Trails.....	27
D.	Broad Run Toll House.....	28
V.	DESIGN.....	28
A.	Design Guidelines and Architectural Review.....	28
B.	Boulevard Entrances.....	29
C.	Alleys.....	29
D.	Demonstration of Square Footage Compliance.....	29
E.	Screening of Internal Surface Parking Areas.....	29
F.	Structured Parking.....	29
G.	Loading Docks/Dumpster Pads.....	30
H.	Rooftop Mechanical Units.....	30
I.	Building Entrances.....	30
J.	Streets, Streetscaping and Landscaping.....	30
1.	Street Design.....	30
2.	Street Trees.....	30
3.	Private Streets.....	30
4.	Streetscape Plan.....	31
5.	Landscaping.....	31
6.	On-Street Parking.....	31

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page iii

7. Block Sizes.....	31
K. Lighting.....	31
L. Specific Land Bay Design Obligations.....	32
1. Building Setbacks.....	32
2. Residential Open Space Amenities	32
3. Residential Uses in Land Bay F	32
4. Retail Sales Establishments in Land Bays West of Pacific Boulevard	32
5. No Freestanding Non-Hotel Commercial Uses in Land Bay Q or Land Bay N	32
6. Screening of Interchange	32
7. Terminus of Road 8 and Road 9.....	32
VI. EMERGENCY SERVICES	33
A. Fire and Rescue Site.	33
B. Owner's Contribution.....	33
C. Sprinkler Systems.....	34
D. Fire & Rescue Review of Site Plans.....	34
E. Emergency Access.....	34
VII. OWNERS ASSOCIATION	34
VIII. MISCELLANEOUS	35
A. Existing Wells and Drainfields.....	35
B. Preliminary Soils Review.....	35
C. Annual Escalation.....	35
D. Severability.....	35
E. Binding Effects.....	35

Exhibits

<u>Exhibit A:</u>	Concept Plan
<u>Exhibit B:</u>	Zoning Ordinance ("ZO"), Facilities Standards Manual ("FSM") and Land Subdivision & Development Ordinance ("LSDO") Modifications
<u>Exhibit C:</u>	Amended Deed of Open Space Easement
<u>Exhibit D:</u>	Design Guidelines
<u>Exhibit E:</u>	PD-MUB District Incentives
<u>Exhibit F:</u>	Broad Run Restoration Concept Plan dated June 2009, as revised through July 8, 2009
<u>Exhibit G:</u>	Central Plaza and Design Illustrations

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 1

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

February 5, 2009
July 23, 2009
October 5, 2009

Pursuant to Section 15.2-2303, Code of Virginia, (1950), as amended, and Section 6-1209 of the Loudoun County Zoning Ordinance (1993), as amended (the "Zoning Ordinance"), NA Dulles Real Estate Investor LLC, a Delaware limited liability company (the "Owner"), who is the owner of Loudoun County Tax Map parcels 042-29-6582, 042-49-0209 and 041-29-8238, consisting of a total of approximately 396.87 acres of real property, of which a portion consisting of approximately 336.60 acres (the "Property") is the subject of rezoning application ZMAP 2008-0021, hereby voluntarily proffers that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with the exhibits and zoning ordinance modifications attached hereto, all of which are incorporated herein by reference. All Proffers made herein are contingent upon the final approval by the Board of Supervisors of Loudoun County, Virginia (the "Board") of the change in the zoning districts requested in rezoning application ZMAP 2008-0021 from the PD-IP (Planned Development - Industrial Park), FOD (Floodplain Overlay District) and AI (Airport Impact) zoning districts to the PD-MUB (Planned Development - Mixed Use Business), FOD and AI zoning districts. Upon final approval of the requested change in zoning districts, these Proffers shall supersede all proffers previously in effect with respect to the Property, if any. All Proffers herein shall be binding on the Owner and its successors and assigns.

I. LAND USE

A. Concept Plan.

The Property shall be developed in substantial conformity with Sheets 1, 2 and 8-23 of the plan attached hereto as **Exhibit A** dated October 2008, as revised through October 2, 2009, and prepared by Urban Engineering Associates, Inc. (all 35 Sheets of such plan are collectively referred to hereafter as the "Concept Plan"). Sheets 3-7 and 29-35 of the Concept Plan are for information and illustrative purposes only. Sheets 8, 9, 10, 11 and 12 of the Concept Plan illustrate the layout proposed for development of the Property and indicate development limitations on the Property, such as public road rights-of-way, open space, floodplain restoration

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 2

activities and limits of clearing and grading for uses outside of the floodplain, which shall be observed during development of the Property as more particularly described in the Proffers.

The Owner shall have reasonable flexibility to modify the location of uses and layout shown on the Concept Plan to accommodate final engineering and development ordinance requirements, provided such changes are: (i) in substantial conformity with the approved Concept Plan and the Proffers; (ii) do not increase total permitted square footage; and (iii) do not decrease the minimum amount of open space or peripheral setbacks shown to be provided on the Property.

B. Uses, Maximum Density/Intensity of Use and PD-MUB Minimum Use Percentages.

The Owner may develop the Property with any of the uses permitted in accordance with the applicable zoning district, including any uses permitted by special exception for which approval of the requisite special exception is obtained. The Property may be developed up to the following maximum densities and intensities of use:

- Up to 3,973,025 square feet of non-residential uses.
- Up to 1,400 multi-family residential units (not to exceed 1,544,000 square feet), inclusive of any required Affordable Dwelling Units ("ADUs") and unmet housing needs (workforce housing) units proffered herein in Proffer I.D. and I.E. and subject to the limitations set forth in Proffer I.B.4. below.

1. Employment Uses. A minimum of 40% of the total floor area to be constructed on the Property shall be devoted to the employment uses permitted in the PD-MUB District.

2. Commercial Uses. A minimum of 5% of the total floor area to be constructed on the Property shall be devoted to the commercial uses permitted in the PD-MUB District. Not more than 398,825 square feet of the 3,973,025 square feet of non-residential uses shall be non-hotel commercial uses. Of the 398,825 square feet of non-hotel commercial uses, at least 200,000 square feet shall be employment supportive uses, such as, but not limited to, the following examples: delis, coffee shops, restaurants, convenience stores, grocery stores, office supply stores, drug stores/pharmacies, greeting card stores, gas stations, retail sales establishments that are located on the first floor of a multi-story office building or multi-family residential building and similar uses that provide convenient sales and dining services to the employees and residents on-site (collectively, "Employment Supportive Uses"). With the exception of (i) grocery stores, (ii) health and fitness centers, and (iii) specialty retail sales establishments offering merchandise and programs related primarily to outdoor recreational uses and activities (such as, but not limited to, hiking, biking and/or water-related sports), each of which may contain up to 80,000 square feet, no individual retail sales establishment shall exceed 50,000 square feet of gross floor area. No freestanding retail sales establishments shall be

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 3

located along the Pacific Boulevard frontage of the Property. Retail sales establishments located within multi-story office buildings that front on Pacific Boulevard in land bays west of Pacific Boulevard shall be oriented to the west.

3. Hotel. The Owner may develop one or more hotel uses as part of the 3,973,025 square feet of non-residential uses. Such hotel uses shall not exceed a total of either 575,000 square feet or 720 rooms. At least one (1) of the hotels shall be a "full service hotel," which shall mean that it will have a range of services and amenities, including a sit-down restaurant containing a minimum of 3,500 square feet, room service, concierge services and meeting rooms containing a minimum total of 3,500 square feet.

4. Residential Uses. A minimum of 10% of the total floor area to be constructed on the Property shall be devoted to the residential uses permitted in the PD-MUB District. All residential uses on the Property shall consist of multi-family dwelling units and shall be located in Land Bays A, C, D, E and F, as such land bays are identified on Sheets 8-12 of the Concept Plan. For any portion of the Property on which the Owner desires to develop multi-family dwelling units to be sold as separate units (such as condominium ownership), no building permit for, nor any conversion to, such for-sale units shall be permitted unless and until any community development authority debt payment obligations applicable to such portion of the Property, if any, have been fully satisfied. The Owner shall provide the County with sixty (60) days written notice prior to any conversion of rental units to such for-sale units for the purpose of confirming that the community development authority payment obligations for such units have been fully satisfied prior to such conversion. If a zoning permit has not been issued for the community recreation facility/baseball stadium approved with SPEX 2008-0054 prior to commencement of construction of greater than 1,550,000 square feet of non-residential uses, then the maximum number of residential dwelling units on the Property shall be 1,100.

5. Public/Civic/Institutional Uses. A minimum of 5% of the total floor area to be constructed on the Property shall be devoted to public/civic/institutional uses as permitted in the PD-MUB District. Examples of the public/civic/institutional uses that may be provided include village greens, plazas, sculpture and flower gardens, picnic areas, gazebos, government offices, public meeting halls, libraries, museums, community club houses, community centers, post offices, day care facilities, church sites, performing arts centers, amphitheaters (if approved by a subsequent special exception application) and the public use site identified in Land Bay N and described in Proffer VI.A. If public/civic/institutional uses are provided in buildings, the actual floor area of the portion of the building containing such civic/public uses shall be counted toward the minimum 5%.

6. Parks and Open Space. A minimum of 10% of the land area of the Property shall be devoted to parks and/or open space. No more than 50% of such parks and/or open space will be located within the river and stream corridor resource. No more than 25% of the required buffers (such as landscape buffers along Pacific Boulevard) and "leftover spaces" (such as parking lot islands) shall be credited toward the minimum 10% parks and/or open space required

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 4

by this Proffer. Such open space areas may include tot lots, pocket parks, stormwater management facilities constructed as wet ponds with year round amenities, pathways and similar passive recreational amenities.

7. Site Plan/Record Plat Tabulations. Prior to the approval of each record plat or site plan for development on the Property, the Owner will submit a tabulation depicting (i) the total minimum amounts of employment, commercial, residential, public/civic/institutional and parks and open space uses to be provided on the Property pursuant to these Proffers, (ii) the amount of employment, commercial, residential, public/civic/institutional and parks and open space provided with previously approved record plats and site plans, (iii) the amount of employment, commercial, residential, public/civic/institutional and parks and open space provided with the subject record plat or site plan, and (iv) the remaining amount of employment, commercial, residential, public/civic/institutional and parks and open space to be provided on the balance of the Property, to insure the minimum percentages of uses will be provided.

C. Route 28 Prepayment of Taxes.

Within sixty (60) days of approval of this rezoning application ZMAP 2008-0021, the Owner shall provide prepayment of taxes that would have been attributable to the portion of the Property to be used for the multi-family residential dwelling units in accordance with the formula and provisions as adopted by the Board of Supervisors for optional residential development within the Route 28 Tax District.

D. Affordable Dwelling Units.

The Owner shall provide six and one quarter percent (6.25%) of the total residential dwelling units constructed on the Property, up to a maximum of 88 dwelling units, as affordable dwelling units (ADUs), as defined and required by the current provisions of Article 7 of the Zoning Ordinance. All of the ADUs shall be provided as multi-family units in mixed-use buildings. The development and administration of the ADUs shall be in accordance with the applicable provisions of the Zoning Ordinance and the Loudoun County Codified Ordinances.

E. Unmet Housing Needs (Workforce Housing) Units.

The Owner shall provide ten percent (10%) of the total residential dwelling units constructed on the Property, up to a maximum of 140 dwelling units, as "Unmet Housing Needs Units" (workforce housing) which shall be available for purchasers or renters whose income does not exceed 100% of the area median income ("AMI") for the Washington Primary Metropolitan Statistical Area. These units shall be administered consistent with the terms provided in the Affordable Dwelling Unit provisions of Article 7 of the Zoning Ordinance and in accordance with Chapter 1450 of the Loudoun County Codified Ordinances, except that (i) the income limit for qualified purchasers or renters shall be 100% of AMI for the Washington Primary Metropolitan Statistical Area, and (ii) all or any portion of such units may be located in a single building notwithstanding any provision of Article 7 to the contrary. All unmet housing needs

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 5

(workforce housing) units will be provided within buildings that provide a vertical mix of units. The affordability requirement for all unmet housing needs (workforce housing) units will be set forth in a covenant approved by the County Attorney and recorded among the land records of Loudoun County.

In addition, if all or any portion of the residential component is exempt from the ADU requirement in accordance with the provisions of Article 7 of the Zoning Ordinance such that fewer than 88 ADUs are required, the Applicant shall provide one unmet housing needs (workforce housing) unit (as defined in this Proffer) for each such ADU that is not required, such that a total of sixteen and one quarter percent (16.25%) of the total residential dwelling units, up to a maximum of 228 dwelling units, are provided as either unmet housing needs (workforce housing) units or a combination of unmet housing needs (workforce housing) units and ADUs.

F. Linkage of Office and Other Non-Residential Uses to Residential Development.

Development of the residential uses on the Property shall be conditioned upon development of office and other non-residential uses constructed on the Property and/or on the portions of Loudoun County Tax Map parcel 041-29-8238 which are not included in ZMAP 2008-0021 (the "PD-IP Portion"). Development of the residential uses on the Property shall be as follows:

1. Zoning permits for at least 780,000 square feet of non-residential uses shall have been issued for the Property and/or for the PD-IP Portion prior to issuance of the zoning permit for the 701st residential dwelling unit, exclusive of ADUs and unmet housing needs (workforce housing) units, for the Property. Such 780,000 square feet of non-residential uses shall consist of (i) a maximum of 195,000 square feet of non-hotel commercial establishments, and (ii) a minimum of 150,000 square feet of employment uses located in one or more office buildings, each containing at least 100,000 square feet each with a minimum of four floors. Such 195,000 square feet of non-hotel commercial establishments shall consist of a minimum of 100,000 square feet of Employment Supportive Uses.

2. Zoning permits for at least 1,500,000 square feet of non-residential uses shall have been issued for the Property and/or for the PD-IP Portion prior to issuance of the zoning permit for the 926th residential dwelling unit, exclusive of ADUs and unmet housing needs (workforce housing) units, for the Property; provided, however, that if a zoning permit for the community recreation facility/baseball ballpark approved with SPEX 2008-0054 has been issued and construction of such facility is commenced and diligently pursued to completion, then zoning permits may be issued for up to a maximum of 1,075 residential dwelling units, exclusive of ADUs and unmet housing needs (workforce housing) units, for the Property until zoning permits for at least 1,500,000 square feet of non-residential uses, including the floor area of the community recreation facility/baseball ballpark, shall have been issued for the Property and/or for the PD-IP Portion. Such 1,500,000 square feet of non-residential uses shall consist of (i) a maximum of 300,000 square feet of non-hotel commercial uses, and (ii) a minimum of 800,000

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 6

square feet of employment uses located in one or more office buildings, containing at least 100,000 square feet each with a minimum of four floors. Such 300,000 square feet of non-hotel commercial uses shall consist of a minimum of 180,000 square feet of Employment Supportive Uses.

3. When zoning permits have been issued for more than 1,500,000 square feet of non-residential uses, consistent with Proffer I.F.2. above, there shall be no further linkage limitation on the timing of residential uses on the Property. The ADUs and unmet housing needs (workforce housing) units described in Proffers I.D. and I.E. may be constructed regardless of the amount of non-residential uses constructed on the Property and/or the PD-IP Portion.

G. Center for Performing Arts and Related Civic Uses.

The Owner shall reserve, for a period of fifteen (15) years from the date of issuance of the first zoning permit for the Property, a minimum of two (2) acres in Land Bay J for donation to the County and/or to a non-profit entity, at the County's discretion, for the purpose of constructing a community center for performing arts and related civic uses. In the event during such fifteen (15) year period a community center for performing arts and related civic uses is approved for construction on the Property and donations have been received and/or agreements have been executed that will fully fund the design, engineering and construction of such center, then the Owner will donate, for no monetary compensation, such reserved parcel to the County and/or to such non-profit entity, at the County's election, for the purpose of constructing such center. The following conditions shall apply to this reservation:

1. If a zoning permit is issued for such a center containing a performing arts theater of at least 350 seats on property located within five (5) miles of the Property, then the Owner shall no longer be required by this Proffer to reserve a two (2) acre site for such a center. The Owner shall advise the County of such performing arts theater within five (5) miles concurrently with submission of any site plan for development of the two (2) acre reservation area.

2. If a final site plan application for such a center on the Property has not been filed within ten (10) years of the approval of ZMAP 2008-0021, then during the remaining five (5) years of this commitment, the Owner may satisfy the requirement to reserve two (2) acres by reserving a two (2) acre site in the northern portion of the Property.

3. Prior to the dedication of the site for a community center for performing arts and related civic uses, the Owner shall identify parking areas on the Property, within and/or outside of such two (2) acre site, that will be available to the users of such community center to meet the parking required for such facility under the Zoning Ordinance.

4. The Owner shall (i) construct street access and sidewalks to the community center, (ii) extend sewer, water, telephone, natural gas and electric service to the perimeter of the community center site, and (iii) design and construct, off-site from the community center site,

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 7

such stormwater detention facilities as may be necessary to accommodate and detain stormwater runoff from the community center site, including planned paved areas and buildings, all concurrent with the Owner's own development activities on the portion of the Property abutting the community center site.

H. Central Plaza.

Prior to or concurrent with issuance of an occupancy permit for either the 701st residential dwelling unit exclusive of ADUs and unmet housing needs (workforce housing) units or the 425,001st square foot of non-residential uses, the Owner shall provide a central plaza consisting of a minimum of 10,000 square feet. The Owner shall provide public amenities in the central plaza that may include, but not be limited to, ponds, fountains, public art, seating areas, landscape areas and other similar features. The central plaza shall be consistent with the character and quality of the description of such central plaza shown on Sheets 19 and 20 of the Concept Plan and in Exhibit G.

I. Building Heights.

Buildings with frontage along the west side of, and within 100 feet of, Pacific Boulevard within Land Bays B, F, J and Q, with no intervening buildings between such buildings and Route 28, shall be constructed to heights of a minimum of four stories or 50 feet. Buildings located in Land Bay C shall not exceed 75 feet in height. No building on the Property shall exceed 160 feet in height.

J. Vertically Mixed Building Design.

A minimum of 50% of the buildings constructed on the Property shall be comprised of a vertical mix of uses consisting of at least two different use categories such as employment, residential, commercial and civic/institutional space. The Owner shall provide a tabulation with each site plan submission depicting the number of buildings located on the Property that contain a vertical mix of at least two (2) different uses. This tabulation shall be updated with each site plan submission to demonstrate those existing buildings, and those proposed buildings that contain a vertical mix of uses, as well as the number of buildings to be constructed under future site plans necessary to achieve the above-stated 50% minimum requirement.

K. Zoning Modifications.

The Owner is requesting approval of certain modifications to the Zoning Ordinance ("ZO"), Land Subdivision and Development Ordinance ("LSDO"), and the Facilities Standards Manual ("FSM") as identified in Exhibit B entitled "Zoning Ordinance ("ZO"), Facilities Standards Manual ("FSM") and Land Subdivision & Development Ordinance ("LSDO") Modifications" dated October 5, 2009. To the extent such modifications are approved, the Owner will only utilize such modifications in accordance with the statements made in

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 8

justification of, and consistent with the illustrations titled "Zoning Modifications Kincora Village," dated July 22, 2009 and October 2, 2009, included in the requests for such modifications, as contained in **Exhibit B**.

L. Floodplain Boundaries.

To the extent the elevations and/or boundaries of the floodplain on the Property, as identified on the current Floodplain Map of Loudoun County, are changed, relocated and/or updated as a result of either (i) construction performed by an entity that is exempt from the Zoning Ordinance (like the Virginia Department of Transportation ("VDOT")), or (ii) approvals under the applicable provisions for updating, correcting, interpreting or altering floodplain boundaries provided in the Zoning Ordinance, the Owner reserves the right, without requiring a proffer amendment or zoning concept plan amendment, to use, for any use permitted by-right or by an approved special exception in the underlying zoning district, those areas currently located within the existing boundaries of the floodplain as shown on the Floodplain Map of Loudoun County, which in the future are no longer within the floodplain, including the right to use the area within any buffer associated with such former floodplain area; provided (i) the total maximum nonresidential floor area and residential units committed in these Proffers are not exceeded, and (ii) the use of such areas complies with applicable federal and state laws and regulations that address the need for floodplain management and protection, including, without limitation, Federal Emergency Management Administration regulations, if applicable.

II. ENVIRONMENTAL

A. Heron Rookery.

Except for the construction, operation and maintenance of the wetlands and stream mitigation bank, on-site wetlands and stream mitigation, or riparian reforestation, no use, including the pedestrian trail system shall be located within the seven hundred (700) foot Rookery Radius shown on Sheet 12 of the Concept Plan, which shall serve as a setback from the documented location of the heron rookery identified on Sheet 12 of the Concept Plan. During the heron nesting season from March 1st to June 30th each year, no construction activity shall be performed within the area defined as the one thousand four hundred (1400) foot Rookery Radius shown on Sheet 12 of the Concept Plan, or the 100-year floodplain boundary, whichever is less. The provisions of this Proffer II.A. shall supersede the provisions of Proffers II.C.1.

B. Central Water and Sanitary Sewer.

The Property shall be developed using central water and sewer facilities, which shall be provided to the Property at no cost to Loudoun County (the "County") or to the Loudoun Water. Water and sewer lines, pumping stations and related utility equipment shall be extended to the Property in accordance with Loudoun Water's adopted Master Plan for provision of water and sewer service.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 9

C. Limits of Clearing and Grading.

The limits of clearing and grading shall be depicted as shown on the Concept Plan on each site plan submission. Encroachments beyond the limits of clearing and grading shall only be permitted for utilities, road access, stormwater management facilities, wetland and stream mitigation activities, trail development, or potential preservation activities associated with the Broad Run Toll House.

D. Wetland and Stream Mitigation, Riparian Preservation and Reforestation, and Wetland Mitigation Bank.

Prior to issuance of the first occupancy permit for any of the uses on the Property, the Applicant shall, subject to issuance of, and pursuant to, all requisite permits and approvals, provide wetland mitigation, stream enhancement, riparian preservation and reforestation, and install the wetland mitigation bank in the amounts specified in, at the general locations depicted on, and of a character consistent with, the Kincora Broad Run Restoration Concept Plan dated June 2009, as revised through July 8, 2009, prepared by Wetland Studies and Solutions, Inc. of Gainesville, Virginia (the "Restoration Concept Plan"), attached to these Proffers as **Exhibit F**. Such wetland mitigation, stream enhancement, RSCRE reforestation, riparian preservation and reforestation, and wetland mitigation bank shall be in substantial conformance with the design specifications, success criteria, and monitoring program contained in the Kincora On-Site Mitigation Plan (Grading Permit X20090680001) dated April 2008, as amended and approved by the County, with the exception that the planting plan (Sheets 26 through 40) shall be upgraded to incorporate the following minimum specifications for the category labeled "Additional Trees (Required for All Alternative)" depicted on Sheets 37 through 39: three (3) gallon, containerized, native deciduous trees planted at a density of 222 trees per acre on a fourteen (14) foot by fourteen (14) foot staggered grid.

In the event that stream and wetland mitigation exceeding the quantities identified in **Exhibit F** are required to offset impacts associated with the uses on the Property (PIN #041-29-8238), the Applicant shall provide the additional mitigation elsewhere on the Property and/or on Tax Map Parcel PIN #'s 042-29-6582 and/or 042-49-0209 to the maximum extent possible. If such additional mitigation cannot be provided on the aforementioned Tax Map Parcels, the Applicant shall provide the mitigation according to the following prioritized order: (1) within the Broad Run Watershed within the same geographic Planning Policy Area, (2) within the Broad Run Watershed outside the Property's geographic Planning Policy Area, and (3) within Loudoun County, subject to approval by the U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality.

E. Open Space Easements.

Prior to the approval of the first site plan or construction plans and profiles for any use on the Property, the Applicant shall grant the County a perpetual Open Space Easement pursuant to

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 10

Title 10.1, Chapter 17 Open- Space Land Act of the Code of Virginia ("Easement"), over and upon all of the land areas identified on the Restoration Concept Plan (**Exhibit F**) by the following labels: "Riparian Preservation Area," "Conservation Area," "Riparian Reforestation Area," "RSCRE Reforestation Area," "Stream Enhancement Area," "Wetland Mitigation Area," "Wetland Mitigation Bank Area" and over and upon all of the land areas identified on the Concept Plan as "Tree Preservation Area." The terms of such Easement shall grant the County a right of access to the Property subject to the Easement and the right to provide and/or complete the required wetland mitigation, stream enhancement, RSCRE reforestation, riparian preservation and reforestation, and wetland mitigation bank in the amounts specified and in the areas depicted on the Restoration Concept Plan (**Exhibit F**) in the event such actions are not completed by the Applicant. Such easement(s) shall be in a form approved by the County Attorney and shall be recorded among the Land Records. Additionally, the Applicant shall post a bond with the County in an amount sufficient to cover the cost of providing and completing the RSCRE reforestation, riparian reforestation, stream enhancement, wetland mitigation, and wetland mitigation bank, as shown on the Restoration Concept Plan, should these activities not already be subject to any State or Federal bond. Boundaries of the Easement shall be depicted on all site plans and construction plans and profiles submitted for the uses on the Property.

It is understood that, as necessary to permit the development on the Property of the uses described in these Proffers and shown on the Concept Plan, the County will cooperate with the Owner to confirm, clarify and amend, consistent with the form Amended Deed of Open Space Easement attached to this Proffer Statement as **Exhibit C**, the existing open space easement that was dedicated to the County pursuant to the Deed of Open Space Easement recorded in Deed Book 2314, at page 1589 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia. To the extent required by the Open Space Land Act, and if necessary to allow for a release of any portion of the open space easement, the Owner will subject alternative land, acceptable to the Board of Supervisors to replace such portions of the open space easement to be released.

F. Tree Conservation.

Within Conservation Areas shown on the Restoration Concept Plan and within Tree Preservation Areas shown on the Concept Plan, the Applicant shall preserve a minimum of eighty percent (80%) of the existing canopy in the cumulative Conservation Areas and Tree Conservation Areas, exclusive of stands of Virginia Pine over twenty-five (25) years in age. A maximum of twenty percent (20%) of the existing canopy may be removed to the extent necessary for the construction and/or installation of (a) utilities other than stormwater management ponds and similar facilities, (b) trails and Stormwater Management Facilities that are required pursuant to these Proffers, (c) stream and wetland mitigation activities, and (d) potential preservation activities related to the Broad Run Toll House.

If, during construction on the Property, it is determined by the Applicant's certified arborist or the County that any healthy tree located within the boundaries of any of the Tree

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 11

Preservation Areas and Conservation Areas has been damaged during construction and shall not survive, then, the Applicant shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The placement of the replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area as requested by the County.

After construction has been completed by the Applicant, Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy may be undertaken. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or Property. Every site plan and any construction plans and profiles for any use on the Property that includes a portion of the land area required to be subject to the Easement shall contain a note stating that the removal of trees within the Open Space Easement is prohibited except in accordance with the provisions outlined in these conditions and the recorded Open Space Easement.

G. River and Stream Corridor Resources (RSCRE) Reforestation.

With the exception of the encroachments depicted on the Concept Plan, the River and Stream Corridor Resources (defined as including 100-year floodplains; adjacent steep slopes (slopes of twenty-five percent (25%) or greater, starting within fifty (50) feet of streams and floodplains and extending no farther than one hundred (100) feet beyond the originating stream or floodplain); and the fifty (50) foot management buffer surrounding floodplains and adjacent steep slopes within the Property shall be preserved and remain in their natural state. The Applicant shall replant open areas within or adjacent to the 100-year floodplain, without the need for a floodplain study, floodplain alteration or floodplain alteration waiver, in an amount equal to the area of the proposed development that encroaches into the River and Stream Corridor Resources, as shown on the Restoration Concept Plan. Such replanting shall be located first, to the extent feasible, in the general vicinity of the areas disturbed, second, in the areas identified as "RSCRE Reforestation Area" on the Restoration Concept Plan (**Exhibit F**), and third, within Tax Map Parcel PIN #'s 042-29-6582, 042-29-8238, and/or 042-49-0209. The amount of such replanting shall exceed the 2.87 acres shown on the Restoration Concept Plan as necessary to achieve an amount equal to the areas of the proposed development that encroach into the River and Stream Corridor Resources.

The Applicant shall submit a riparian planting plan, prepared by a professional forester, landscape architect, or certified arborist, for such replanting areas. Such replanting plan shall be submitted at the time of each site plan or construction plans and profiles proposing the development of any area that encroaches into the River and Stream Corridor Resources for review and approval by the County Urban Forester. Each such plan shall provide for three (3) gallon, containerized, native, deciduous trees to be planted at a density of three hundred (300) trees per acre on a twelve (12) foot by twelve (12) foot staggered grid. Each approved riparian

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 12

planting plan shall be implemented concurrent with the development of the areas subject to such site plans or construction plans and profiles prior to occupancy. In the event that a targeted stocking of seventy-five (75) percent survival with uniform distribution is not achieved within one (1) year, the Applicant shall provide supplemental planting to achieve the targeted stocking.

H. Stormwater Management Best Management Practices (SWM/BMPs)/Low Impact Development Techniques (LIDs).

The Property shall be developed in accordance with Best Management Practices (BMPs). Notwithstanding the SWM/BMPs depicted on the Concept Plan, Low Impact Development Techniques, such as but not limited to green roofs, rain gardens, cisterns, and planted swales shall be incorporated into the Property's overall stormwater management approach where practicable in order to meet the applicable stormwater management requirements of Loudoun County inclusive of those BMPs depicted on the Concept Plan. The locations and water quality benefits of such LID techniques shall be included in each site plan and construction plans and profiles submitted for the uses on the Property.

I. Stormwater Management Filter/Cartridge Maintenance.

To the extent the Applicant installs underground (cartridge or filter system) stormwater management facilities, the Applicant shall be responsible to maintain, repair, and replace such facilities at its sole cost and expense in accordance with Chapter 1096 Stormwater Management of the Codified Ordinances of Loudoun County. The County, its agents, employees, successors and assigns, shall be entitled to have access to such facilities at any time to inspect, to ensure the fulfillment of the maintenance responsibilities, and, if necessary, at the County's sole discretion, to conduct such maintenance, repair and replacement as may be necessary, at the Applicant's expense. Prior to approval of the first site plan, the Applicant shall furnish a written maintenance agreement in a form approved by the County Attorney and a financial guarantee in the form of a cash escrow or irrevocable letter of credit satisfactory to the Director of General Services to secure its obligation to provide appropriate and necessary maintenance, repair, and replacement of such underground stormwater management facilities. The financial guarantee shall remain in force and effect for a period of twenty-five (25) years, and the amount of the financial guarantee shall be \$1,625.00 per underground filter or cartridge covered by the maintenance agreement unless the Director of the Department of General Services shall approve a lesser amount. The maintenance agreement shall be recorded among the land records and shall remain in force for so long as such underground facilities remain in use.

J. Broad Run Water Quality Monitoring.

Surface water quality monitoring shall be conducted by the Applicant for the purpose of monitoring water quality impacts of the uses on the adjacent Broad Run. The Applicant shall, in cooperation with County Staff, and concurrent with submission of the first site plan or construction plans and profiles for a use on the Property, whichever is first in time, develop a water quality monitoring plan for monitoring sites quarterly, that identifies the location of

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 13

monitoring sites, sampling and assessment protocols, format of data reporting, and water quality thresholds as a basis for corrective action based on sampling. If at any time the monitoring results exceed the established water quality thresholds, the Applicant shall take immediate action to investigate the condition. If the condition is a result of activity on the Property, the Applicant shall take immediate action to remediate the condition to the established water quality thresholds. Monitoring activities shall begin at least thirty (30) days prior to land disturbance associated with construction of the first use on the Property and shall be conducted through a time period of one year after release of the final construction performance bonds for the uses. The County shall have the authority, with adequate notice to the owner, to enter the Property at any time to test the water quality of Broad Run and its tributaries.

K. Trails Located Within the Floodplain.

Trails located within the floodplain shall be constructed with pervious surfaces and, where such trails cross jurisdictional waters and/or wetlands, raised boardwalks, with designs consistent with the sections provided on Sheet 15 of the Concept Plan, provided the Owner reserves the right to construct an impervious trail connection from the developable portion of the Property to the heron rookery observation platform to be constructed pursuant to Proffer IV.B. Public access easements shall be provided on all trails located within the floodplain.

L. Harvesting Trees from Cleared Areas.

The Owner shall harvest trees from those areas of the Property that are forested and are to be cleared by the Owner for development of the uses on the Property. The Owner shall retain any proceeds received from the sale of the harvested forest products.

M. Green Building Practices.

The Owner shall employ development attributes of the United States Green Building Council's Leadership in Energy and Environmental Design ("LEED") program into the planning of the employment and residential buildings that are a minimum of four stories or fifty (50) feet on the Property. Those elements may include, but shall not be limited to, sustainable site design, water efficiency, energy management, materials and resource reuse, and/or interior environmental quality. The following alternative transportation-related elements will be included throughout the Property:

- a. secure bicycle parking areas for all employment and commercial buildings and sheltered bicycle parking areas for multi-family residential buildings;
- b. shower facilities for employees in all buildings at least four stories or fifty (50) feet in height and containing greater than 100,000 square feet of non-residential uses; and

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 14

- c. the locating of a bus or shuttle stop within one-quarter mile of each employment and commercial building.

While this Proffer shall not be construed as a commitment to obtain a certain level of LEED certification, the design and construction of all employment and residential buildings a minimum of four stories or fifty (50) feet will incorporate sustainable building elements for LEED version 3, or the current version of LEED effective at the time of site plan submission for New Construction or for Core and Shell, and will be designed to achieve LEED goals, including reduction in potable water use, energy use reductions, construction waste diversion from sanitary landfills or incinerators, and enhanced indoor environmental conditions, to the extent the Owner determines that such LEED elements and goals can be incorporated without impairing the competitiveness of the Owner's buildings in the marketplace.

The Owner shall employ a LEED accredited professional in the design of each employment and residential building a minimum of four stories or fifty (50) feet in height.

All residential buildings and individual dwelling units shall be outfitted with energy efficient appliances including, but not limited to, ENERGY STAR or an energy efficient rating equivalent qualified dishwashers, refrigerators and clothes washers. In addition, each residential building shall include conveniently located facilities to enable residents to recycle mixed waste products.

III. TRANSPORTATION

A. Road Network.

Unless otherwise specified in the Proffers, all roads required for access to and within the Property shall be constructed in accordance with the County's Land Subdivision and Development Ordinance and the FSM to provide access to the various portions of the Property as they are developed. All public roads required for access to and within the Property shall be designed and constructed in accordance with applicable VDOT and County standards. Except as provided in Proffer III.C., on-site public roadways shall be constructed as development of each section of the Property that includes such roadways occurs consistent with the timing specified in Proffer III.D.

Dedication of land for public roads and parallel trails shall include all related easements outside the right-of-way, such as slope, maintenance, storm drainage and utility relocation easements, necessary to construct the public roads and parallel trails shown on the Concept Plan within the Property and along the Property's existing public street frontage. Dedication of right-of-way and easements to the County for the public roads and parallel trails shown on the Concept Plan shall occur concurrently with development of each section of the Property unless already dedicated by others. However, if requested by the County to dedicate the right-of-way and related easements in advance of development on the Property, the Owner shall make such

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 15

dedication if: (1) others have prepared and obtained final approval of construction plans and profiles consistent with the Concept Plan, which require dedication to commence construction; and (2) provided that the Owner shall not be obligated to incur costs or post bonds with the County in connection with such dedication.

B. Pacific Boulevard Alignment.

The final alignment of Pacific Boulevard as it crosses the northeast corner of the site and Broad Run and connects to Russell Branch Parkway shall be determined at the time VDOT right-of-way plans and/or Owner-initiated construction plans and profiles are approved, and such alignment may be shifted from the alignment shown on the Concept Plan without requiring a Zoning Concept Plan Amendment or proffer amendment. If the Board of Supervisors approves the creation of a community development authority to finance construction of Pacific Boulevard, and VDOT and/or the County have not approved the final alignment of the off-site portion of Pacific Boulevard in connection with the review and approval of the requisite plans for Pacific Boulevard, the community development authority shall, at the time required by the terms of these Proffers, deposit with the County the necessary funds for the construction of that segment of Pacific Boulevard, in the alignment shown on the Concept Plan, to be held by the County and used only for the future construction of that segment of Pacific Boulevard. Any interest that accrues on such funds shall likewise be held and used only for the construction of that segment of Pacific Boulevard. Any portion of such funds or accrued interest that is not used for the construction of Pacific Boulevard, if any, shall be returned to the community development authority.

C. Construction of Public Roads With a CDA.

In the event the Board of Supervisors creates for the Property a community development authority ("CDA") pursuant to § 15.2-5152 et seq., Code of Virginia (1950), as amended, the Owner shall dedicate right-of-way to the County and/or to VDOT, if and as necessary for the ultimate configuration of the following road improvements and, with the funding to be provided by such CDA, shall construct, bond for construction or cause to be constructed the following transportation improvements, within three (3) years of the date the CDA is created by the Board, with reasonable extensions to be granted should market conditions not permit issuance of CDA bonds at a reasonable rate of interest:

1. Gloucester Parkway. The extension of Gloucester Parkway as shown on the Concept Plan from the planned terminus of the Route 28/Gloucester Parkway interchange project, across the Property and Broad Run, and, subject to the provision of off-site right-of-way by others, to Loudoun County Parkway. Such extension of Gloucester Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section and a ten (10) foot wide bicycle trail on the north side of such extension of Gloucester Parkway. The Owner shall dedicate right-of-way on the Property for Gloucester Parkway 120 feet in width to accommodate an ultimate 6-lane

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 16

divided section. The Owner shall construct the 4 lanes required by this Proffer as the outer lanes of the ultimate planned 6-lane divided road section for Gloucester Parkway.

2. Pacific Boulevard. The Owner shall construct the extension of Pacific Boulevard as shown on the Concept Plan from the southern Property boundary across the Property and Broad Run, and subject to provision of off-site right-of-way by others, to the current terminus of Russell Branch Parkway. Such extension to Russell Branch Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section and a ten (10) foot wide bicycle trail on the west side of such extension of Pacific Boulevard; provided the Owner/CDA shall not be responsible for any portions of the four lane section which have been or are committed to be constructed by others.

On or before the date that is sixty (60) days from the date of final approval of this rezoning application (ZMAP 2008-0021), the Owner shall petition the Board of Supervisors to create a CDA for the purpose of financing construction of at least the road improvements identified in this Proffer. The Owner shall include all of the Property in the petition to create such CDA. The Owner shall be permitted to coordinate the timing and implementation of construction of these public roads pursuant to this Proffer with other construction projects by others, provided such public roads are constructed or bonded for construction within three (3) years of the date the CDA is created by the Board, with reasonable extensions to be granted should market conditions not permit issuance of CDA bonds at a reasonable rate of interest. Nothing provided in this Proffer shall prevent the Owner from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles and grading permit) for the Property, nor from commencing construction on the Property, during the design and construction of these public roads. In the event the CDA is created to finance construction of the roads identified in this Proffer, the Owner shall be allowed to develop any uses permitted on the Property without regard to the provisions of Proffer III.D. below, as long as (i) such uses are consistent with the linkage limitations outlined in Proffer I.F., and (ii) the Owner provides the necessary intersection improvements to connect the private streets to Pacific Boulevard as shown on the Concept Plan. In the event the necessary right-of-way for the off-site portions of Gloucester Parkway and/or Pacific Boulevard have not been dedicated to VDOT and/or the County and have not otherwise been acquired by VDOT and/or the County, within twelve (12) months of the date the CDA is created, the Owner's and/or the CDA's obligation to construct the off-site portions of the respective road for which the right-of-way is needed shall be deferred until such time as the right-of-way is acquired, and the Owner shall be permitted to pursue development of the Property notwithstanding that such portion of the road is not constructed. The CDA shall be responsible for maintenance of the segments of road constructed by the CDA until such time as such segments of road are accepted into the VDOT system for maintenance.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 17

D. Construction of Public Roads Without a CDA.

If the Board of Supervisors has not created a CDA for the Property to fund the transportation improvements described in Proffer III.C. above, within twelve (12) months of the final approval of this rezoning application ZMAP 2008-0021, and the Owner desires to proceed with development of the Property without CDA financing, the Owner shall construct or bond for construction the following transportation improvements in accordance with the transportation construction schedule set forth below, which includes in the non-residential use numbers all non-residential uses constructed on Property and on the PD-IP Portion:

1. Uses In Land Bay Q. Unless already constructed by Owner or others, prior to the first site plan approval for construction of any use in Land Bay Q, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road, and construct the two additional lanes of Pacific Boulevard from the southern Property boundary to Gloucester Parkway as shown on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes and transitions to an undivided section to the south as required by VDOT.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

2. Transportation Improvements for Transportation Phase 1A (initial uses of the Property and PD-IP Portion up to and including 300,000 square feet of non-residential uses (which may include up to 270 hotel rooms) and 300 residential dwelling units). Prior to the first record plat or site plan approval, whichever is first in time, for construction of any use on the Property, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road, and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its intersection with Gloucester Parkway as shown on the Concept Plan to a point sufficient to provide access to the portion of the Property proposed for such uses. Such portion of Pacific

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 18

Boulevard shall consist of two lanes of the ultimate four-lane divided road, as such four-lane divided road is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph to serve the portion of the Property proposed for such use. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

3. Transportation Improvements for Transportation Phase 1B (up to and including 1,125,000 square feet of non-residential, non-hotel uses, 270 hotel rooms and 700 residential dwelling units). Prior to issuance of the zoning permit for the 300,001st square foot of non-residential uses (inclusive of any hotel rooms constructed in Phase 1A) or the 301st residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard with Road 2, or to a point further north of this intersection if such extension is necessary to provide access to the portion of the Property proposed for such uses, as such four-lane divided section is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals are not warranted at the time of the initial construction of Pacific Boulevard in Transportation Phase 1B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2A, if warranted by VDOT at that time.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 19

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others, the Owner shall install a traffic signal at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the time of the construction of the portion of Pacific Boulevard identified in Transportation Phase 1B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2A, if warranted by VDOT at that time.

4. Transportation Improvements for Transportation Phase 2A (up to and including 1,700,000 square feet of non-residential, non-hotel uses, 500 hotel rooms and 1,068 residential dwelling units). Prior to issuance of the zoning permit for the 1,100,001st square foot of non-residential, non-hotel uses, the 271st hotel room, or the 701st residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard and Road 1 between Land Bays F and B, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals proffered in

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 20

Proffer III.D.3.a. are still not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal will be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout will be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

5. Transportation Improvements for Transportation Phase 2B (up to and including 2,400,000 square feet of non-residential, non-hotel uses, 720 hotel rooms and 1,400 residential dwelling units). Prior to issuance of the zoning permit for the 1,700,001st square foot of non-residential, non-hotel uses, the 501st hotel room, or the 1,069th residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard, except any portion already constructed or committed to be constructed by others, from its then current northerly terminus across the Property as shown on the Concept Plan, with a bridge across Broad Run, and, subject to right-of-way being provided by others, connecting to the eastern terminus of Russell Branch Parkway. Such road extension shall be four-lane divided roadway and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes at the intersections with the roads that provide access to the land bays along Pacific Boulevard, as

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 21

required by VDOT. In addition, traffic signals shall be provided at all of the intersections with roads that provide access to land bays along Pacific Boulevard, if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for such roads that provide access to the land bays along Pacific Boulevard. If the traffic signals are not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 3, if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within the public right-of-way and/or within such public access easement along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 3 if warranted by VDOT at that time.

6. Transportation Improvements for Transportation Phase 3 (full buildout). Prior to issuance of the zoning permit for the 2,400,001st square foot of non-residential uses, non-hotel uses and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Gloucester Parkway: Dedicate right-of-way, if and as necessary, and construct an extension of Gloucester Parkway, except any portion already constructed or committed to be constructed by others, from Pacific Boulevard across the Property, with a bridge across Broad Run, as shown on the Concept Plan, and, subject to right-of-way being provided by others, connecting to Loudoun County Parkway. Such road extensions shall be four-lane divided roadways and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 22

standards, together with deceleration, acceleration and turn lanes as required by VDOT.

b. Bicycle Trail – Gloucester Parkway: To the extent not located within the public right-of-way, dedicate a fourteen (14) foot wide on-site public access easement in the setback area along the north side of Gloucester Parkway, and construct a ten (10) foot wide multi-purpose trail within the public right-of-way and/or within such public access easement and along the portion of Gloucester Parkway constructed pursuant to the preceding paragraph, which shall connect to the bicycle trail located on the west side of Pacific Boulevard.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at this intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The warrant study shall be submitted to VDOT and the County with the first final site plan submitted to the County for development in Transportation Phase 3.

E. Acquisition of Off-Site Right-of-Way/Easements.

1. In addition to dedicating right-of-way and easements on the Property, the Owner shall make a good faith effort to acquire off-site right-of-way or easements necessary for the construction of the off-site portions of Pacific Boulevard and Gloucester Parkway proffered herein. Where, despite such good faith efforts, right-of-way and/or easements necessary for construction of such off-site portion of Pacific Boulevard and/or Gloucester Parkway cannot be obtained either (i) voluntarily through donation or proffer to the County, or (ii) through purchase by the Owner at a fair market value price, the Owner shall request VDOT and/or the County to acquire such right-of-way and/or easements by appropriate eminent domain proceedings by VDOT and/or the County, with all costs associated with the eminent domain proceedings to be borne by the Owner, including but not limited to, land acquisition costs. The initiation of such eminent domain proceedings is solely within the discretion of VDOT and/or the County. It is understood that the County will attempt to obtain the off-site right-of-way for both the extension of Pacific Boulevard and the extension of Gloucester Parkway, as a condition of County approvals of land use applications for the properties across which such extensions will be constructed. The Owner shall not be required to pay any amounts for such right-of-way to the extent the County obtains such right-of-way as a condition of County approvals of land use applications.

2. If the necessary right-of-way and/or easements cannot be acquired voluntarily and the County and/or VDOT choose not to exercise the right of eminent domain within six (6) months of a written request by the Owner, the Owner shall be released from the obligation to acquire such right-of-way. If the County and/or VDOT elect to defer its exercise of eminent

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 23

domain, then the Owner's Proffer requiring such acquisition or construction shall likewise be deferred.

3. Notwithstanding the commitments in Proffer III.D. above, the Owner shall not be prevented from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles, grading permit, zoning permit, building permit, and occupancy permit) for the Property, nor from commencing construction on the Property, during the pendency of any eminent domain proceedings initiated pursuant to this Proffer, nor any deferral of the County's and/or VDOT's exercise of eminent domain pursuant to Proffer III.E.2. above.

F. Traffic Signalization.

When required by the phasing provisions set forth in the paragraphs above, the Owner shall prepare a signal warrant analysis for the installation of the traffic signals identified in each respective Transportation Phase. Pursuant to said signal warrant analysis, and if warranted by VDOT, the Owner shall design and install traffic signalization at the respective intersections when required by the schedule above. In the event a signal has not been warranted by VDOT when the Owner desires to proceed with the respective phase of development on the Property, the obligation to design and install such signal shall be deferred to the beginning of the next phase of development on the Property. In the event a signal proffered above has not been warranted at the beginning of Transportation Phase 3 of development on the Property, the Owner shall make a cash contribution to the County for the cost of the design and installation of such traffic signal. Such cash contribution shall be made prior to issuance of the first zoning permit for a use in Transportation Phase 3 of the development. The amount of the cash contribution shall be based on an estimate provided to the County by a certified engineer; however, in no case shall the contribution exceed Two Hundred Seventy-Five Thousand and 00/100 Dollars (\$275,000.00) for each traffic signal. This maximum limit on said contribution shall escalate in accordance with the Consumer Price Index ("CPI") from a base year of 2009.

G. Cash Equivalent Contribution.

Unless otherwise provided in these Proffers or unless such improvements are provided in cooperation with others by private agreement or subject to the commitments of other zoning applications, the Owner agrees that, in the event any of the transportation improvements described above in Proffer III.D., except (i) the bridge crossings and off-site extensions of Gloucester Parkway and Pacific Boulevard, and (ii) the portions of Pacific Boulevard and Gloucester Parkway constructed by VDOT with the construction of the Route 28/Nokes Boulevard/Gloucester Parkway interchange, are constructed or bonded for construction by others prior to bonding for construction by the Owner, the Owner shall contribute to the County or its designee, for each such improvement provided by others, an amount equal to the cost of constructing such transportation improvements described above in Proffer III.D. in lieu of actual construction of each such improvement provided by others. For the purposes of determining the

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 24

in-lieu-of contribution, (i) the actual cost of the respective improvements will be used if available; if not, the value of the bond estimate will be used, and (ii) construction costs shall be deemed to include all engineering, surveying, bonding, permit fees, utility relocation, and other hard costs of construction based on paid invoices. Such contribution in lieu of actual construction shall occur at the time the Owner would otherwise have been required by these Proffers to bond or construct such improvements. As determined by the County, such contribution shall either be used to reimburse the party who constructed such improvements, or for regional roadway or transit improvements in the vicinity of and for the benefit of the Property.

H. Highway Noise Mitigation.

Concurrently with the filing of the first site plan or construction plans and profiles for the Property, whichever is first in time, the Owner shall submit an acoustical analysis for the Property to determine which areas of the Property may be adversely impacted by highway noise generated along (i) the Route 28 (Sully Road)/Pacific Boulevard frontage, and (ii) the Gloucester Parkway frontage. With each subsequent site plan for a residential, hotel, or employment use on the Property, the Owner shall demonstrate compliance with the aforementioned acoustical analysis with the goal of mitigating material adverse highway noise impacts in the noise sensitive areas of the Property, such that (a) interior noise levels do not exceed 50 dbA for residential and hotel units, (b) exterior noise levels at the façade of office buildings do not exceed 70 dbA, and (c) outdoor passive and active recreation areas do not exceed 65 dbA. Compliance with the acoustical analysis shall demonstrate the methods that shall be incorporated into the site and building design in order to reduce noise levels for residential, hotel and office uses in accordance with the noise abatement criteria specified above, with preference given to passive measures, such as landscaping and berming, to the extent practicable.

I. Bus Shelters.

Within six (6) months of the date of commencement of public bus service to the Property, the Owner shall construct two (2) bus shelters on the Property along Pacific Boulevard. Said bus shelters shall be in addition to those required in accordance with SPEX 2008-0054. The Owner shall coordinate the design and location of these bus shelters with the Office of Transportation Services or other appropriate County agency. The commitment in this Proffer to construct bus shelters shall terminate twenty (20) years after issuance of the zoning permit for the Property, if no public bus service to the Property has been established during such twenty (20) years; provided upon such termination, the Owner shall contribute to the County a cash contribution in the amount of the estimated cost of two (2) bus shelters to be used by the County to construct such bus shelters in the future. The bus shelters shall be maintained by the Owners Association established pursuant to Proffer VII. The Owner shall coordinate the design and location of such bus shelters with the Office of Transportation Services at the time of site plan review.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 25

J. Transportation Demand Management Program.

Prior to issuance of the first zoning permit for an office or residential use on the Property, the Owner shall implement a Transportation Demand Management ("TDM") program whose objective is to reduce peak hour vehicle trips to and from the site. The means to achieve this objective over the build-out period for this site may vary from time to time as knowledge is gained about specific factors and as the area and region develop. Elements of this program shall include, but shall not necessarily be limited to, the following:

1. Identify an Employer Transportation Coordinator (ETC) for each employment or residential building to serve as the TDM contact with the Loudoun County Office of Transportation Services ("OTS"). ETCs shall promote and encourage commuting alternatives in cooperation with other private and public TDM efforts or Transportation Management Associations. ETCs shall meet with OTS Staff to clarify commuting options to the site and develop promotions and programs in support of established TDM goals.
2. Conduct initial and biennial employee commute surveys of employees of employment buildings and residents of residential buildings to benchmark and measure progress toward the reduction of vehicle trips and vehicle emissions.
3. Provide a minimum of five percent (5%) of total parking spaces for each employment or residential building as preferred parking spaces for (a) carpool/vanpool vehicles, (b) fuel efficient vehicles, or (c) car sharing vehicles.
4. Promote flexible, compressed, or telework schedules for on-site employees and residents.
5. Support transit service by encouraging all employers to provide qualified transportation fringe benefits, as allowed under Section 132(f) of the Internal Revenue Code.
6. Construct and maintain permanent public information displays in all employment or residential buildings for distribution of alternate commute information, including transit schedules, park-and-ride lot maps, rideshare programs and telework.
7. Install secure weather-protected bicycle storage facilities or bicycle racks for a minimum of twenty (20) bicycles for each employment or residential building. Such bicycle storage facilities and/or bicycle racks shall be located in a convenient location for use by employees and/or residents and shall be installed prior to issuance of the occupancy permit for each respective building.
8. Provide accessible shower facilities in all employment buildings that are a minimum of four stories or fifty (50) feet in height and containing greater than 100,000 square feet of non-residential uses.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 26

9. Provide information on office employers' and residential buildings' intranet or internet sites detailing alternative modes of transportation and other travel reduction opportunities.

10. Submit to OTS biennial travel reduction plans outlining strategies for reducing vehicles trips to and from the Property during peak hours.

K. Transit Service Contribution.

At the time of issuance of each residential zoning permit for the Property, the Owner shall make a one-time cash contribution to the County in the amount of Five Hundred Seventy-Five and 00/100 Dollars (\$575.00) for each of the market rate dwelling units developed on the Property. Such contributions shall be used, in the discretion of the Board of Supervisors, to fund capital equipment for transit services that serve the Property. Said contributions shall be escalated in accordance with the changes in the Consumer Price Index ("CPI") from a base year of 2009 (see Proffer VIII.C.).

L. Kincora Shuttle.

Upon issuance of zoning permits for greater than 1,500,000 square foot of non-residential, non-hotel uses (which threshold shall include the non-residential uses constructed on the PD-IP Portion) and if there is adequate demand as determined by the County Office of Transportation Services, the Owner shall provide a private shuttle service during regular business hours utilizing vehicles with a minimum capacity of twenty (20) persons for the transport of employees and residents between the uses on the Property with the intent of connecting those non-residential uses located in Land Bays N and Q with the remaining uses on the Property. In addition, until such time as regional transit service is available to the site, the Applicant shall provide such shuttle service to the nearest park-and ride facility or regional transit facility.

IV. RECREATION AND HISTORIC

A. Recreation.

1. The Owner shall construct a bicycle and pedestrian circulation system consisting of sidewalks and trails on the Property in substantially the same location as illustrated on Sheets 15 and 16 of the Concept Plan. Sidewalks need not be constructed in locations where asphalt trails are constructed to provide the pedestrian circulation linkage depicted on Sheets 15 and 16 of the Concept Plan. Sidewalks shall be constructed on both sides of Roads 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 as depicted on Sheet 16 of the Concept Plan and shall include conveyance of appropriate public access easements. Sidewalks and trails shall be constructed in phases concurrently with the development of land in areas adjacent to such sidewalks and trails. Unless constructed in the public right-of-way, sidewalks shall be subject to a public access easement of a minimum of six (6) feet in width, asphalt trails shall be subject to a public access easement of a

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 27

minimum of twelve (12) feet in width, and all other trails shall be subject to a public access easement of a minimum of eight (8) feet in width. Trails constructed within the major floodplain west of Pacific Boulevard or in the River and Stream Corridor 50-foot Management Buffer shall be constructed of pervious surfaces and with raised boardwalk crossings where such trails cross jurisdictional waters and/or wetlands as depicted in the section exhibits provided on Sheet 15 of the Concept Plan. Trails constructed outside of such major floodplain and River and Stream Corridor 50-foot Management Buffer shall be constructed of asphalt and/or such pervious surfaces, boardwalks and raised walkways as may be permitted, in accordance with the applicable provisions of the FSM. Unless a different minimum width is established for a specific trail elsewhere in these Proffers, asphalt trails shall be a minimum width of ten (10) feet. All other trails shall be a minimum width of six (6) feet. Sidewalks shall be constructed of concrete, brick, concrete or brick pavers, marble or other material typically used for sidewalks in office parks and mixed-use centers, in accordance with the Design Guidelines and applicable provisions of the FSM, and shall be a minimum width of four (4) feet for private sidewalks, and, subject to VDOT approval, a minimum width of five (5) feet for public sidewalks.

2. As each portion of the Property receives record plat approval or site plan approval, whichever is first in time, the Owner shall develop and dedicate to the Owners Association provided in Proffer VII., the SWM/BMP Ponds, the trails, civic spaces and open space areas identified in such portion, all as illustrated on the Concept Plan. The declaration of covenants, conditions and restrictions recorded against the Property (the "OA Covenants") shall require the establishment of maintenance procedures and sufficient funding so that the Owners Association will have the financial ability to maintain such facilities and open space areas in a decent, clean, safe and healthy condition for use by residents of the Property.

B. Heron Rookery Observation Platform.

Concurrently with construction of the trails within the floodplain area within the 1,400 foot Rookery Radius as depicted on the Concept Plan, the Owner shall construct an observation platform of not less than 400 square feet from which users of the trail can view the heron rookery. Such observation platform shall be a component of the trail system referenced in Proffer IV.A. and shall be maintained by the Owners Association, unless and until such time as the floodplain and/or the trail and observation platform are dedicated to the County. Such observation platform shall be located outside of the 700 foot Rookery Radius as depicted on the Concept Plan. The Owner reserves the right to install an impervious trail connection from Land Bay C to the observation platform, notwithstanding the limitations on types of trails set forth in Proffer II.D.

C. Dedication of Floodplain Area and Trails.

Within six (6) months of the completion of all work associated with the construction, maintenance and certification by the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, of any wetlands mitigation and/or wetlands mitigation banking areas

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 28

the Owner develops in the Broad Run floodplain, the Owner shall dedicate to the County the approximately 162.11-acre area west of Pacific Boulevard within the major floodplain for Broad Run as shown on Sheets 34 and 35 of the Concept Plan, at no charge, for use as a natural area for public passive park purposes. Prior to such dedication, all trails located west of Pacific Boulevard and within the major floodplain for Broad Run as depicted on the Concept Plan shall be subject to public access easements to permit use by the public and shall be maintained by the Owners Association. In the event the County desires dedication of the wetlands mitigation and/or wetlands mitigation banking areas prior to the certification by the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, the Owner shall dedicate to the County such areas within six (6) months of a request by the County; provided the Owner retains (i) ownership of all wetlands mitigation banking credits and the County assumes responsibility for maintenance of such wetlands mitigation areas until such areas are certified as completed by the Army Corps of Engineers and/or the Virginia Department of Environmental Quality, and (ii) the right to use and maintain, as may be required by these Proffers, all trails in such dedication area.

D. Broad Run Toll House.

At such time as the Applicant is obligated under this Proffer Statement to construct the extension of Pacific Boulevard across Broad Run and connecting to Russell Branch Parkway, if (i) such extension of Pacific Boulevard will not permit the preservation of the Broad Run Toll House in its current location on Loudoun County GPIN Parcel 040-39-8734, and (ii) the Applicant determines, in consultation with the Office of Historic Preservation, the Department of Parks and Recreation and the Loudoun County Historic District Review Committee, that it is feasible to relocate the Broad Run Toll House from its current location to a suitable location on the Property, the Applicant shall pursue the relocation of the Broad Run Toll House to such alternative location, at the Applicant's sole expense. Such relocation shall be subject to applicable provisions of Section 6-1902 of the Zoning Ordinance and in conformance with applicable state and federal requirements regarding the relocation of such resource.

V. DESIGN

A. Design Guidelines and Architectural Review.

The Property shall be developed as a unified community consistent with the Design Guidelines attached to this Proffer Statement as **Exhibit D**. The Owner shall require the Owners Association created pursuant to Proffer VII to establish a Design Review Committee consisting of owners of all or portions of the Property. The Design Review Committee shall develop appropriate review procedures to ensure the Property is developed consistent with the Design Guidelines. The Owners Association shall establish the Design Review Committee within three (3) months of the creation of the Owners Association, and all subsequent site and building plans shall be reviewed by the Design Review Committee for consistency with the Design Guidelines.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 29

B. Boulevard Entrances.

Road 1 and Road 2, as identified on the Concept Plan, shall be designed and constructed, with landscaped medians eight (8) feet in width, to provide attractive boulevard entrances consistent with the cross-section shown on Sheet 18 of the Concept Plan; provided such landscaping in the medians shall not obstruct necessary sight distances for traffic. A project identification feature comparable in size and quality to the design shown on Sheet 21 of the Concept Plan shall be provided at the entrance from Pacific Boulevard in the southeast corner of Land Bay J identified on Sheet 11 of the Concept Plan.

C. Alleys.

Site plans shall depict the location of alleys that provide access to the interior of each land bay.

D. Demonstration of Square Footage Compliance.

With the filing of each site plan, the Owner shall provide a running tabulation which presents proposed and approved square footage as follows: (i) total overall site development within Kincora; (ii) total non-residential use by category proposed and residual amount available; (iii) total number of hotel rooms proposed and constructed; (iv) total non-residential use versus residential use; and (v) total amount of civic space. Such tabulation shall demonstrate compliance with the square footage limitations set forth in these Proffers and with the tabulation provided on Sheet 13 of the Concept Plan.

E. Screening of Internal Surface Parking Areas.

Surface parking areas shall be screened from the internal private streets with landscaping and walls and/or other streetscape elements comparable in size and quality to the examples provided on Sheets 19 and 19A of the Concept Plan and in **Exhibit G**, for the purpose of buffering headlight glare and other visual impacts of surface parking.

F. Structured Parking.

At full build-out, at least fifty percent (50%) of the required parking spaces will be located within parking structures. Parking structures that may be visible from public view shall be treated with individual design elements that may include, but not to be limited to, storefront appearance, false fenestration, glass, colored or stamped concrete panels, or any combination thereof, or other architectural treatment for the purpose of blending the parking structure architecture with that of surrounding buildings. In the event that areas planned for structured parking are used as surface parking areas prior to full build-out, those surface parking shall be screened as indicated in Proffer V.E. above.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 30

G. Loading Docks/Dumpster Pads.

All refuse collection and loading areas on the Property shall be oriented so as to have minimum visibility from public roads and residential uses. If such refuse collection and loading areas are not substantially blocked from view from public roads and residential uses, they shall be treated with architectural elements or decorative fencing and landscaping so as to be screened from public roads and residential uses.

H. Rooftop Mechanical Units.

Any mechanical units placed on the rooftops of buildings on the Property shall be screened by architectural features compatible with building facade architecture.

I. Building Entrances.

Unless deemed unfeasible in order to comply with federal security guidelines, each building constructed on the Property shall be constructed with its principal entrance oriented towards the street on which it fronts.

Pedestrian access shall be provided from parking areas to the principle entrances of all buildings constructed on the Property. The Owner shall ensure that each building can be accessed from adjacent parking areas via a demarcated pedestrian pathway.

J. Streets, Streetscaping and Landscaping.

1. Street Design. Streets will generally be designed and constructed in a rectilinear pattern of collector roads, local access roads, streets, and alleys, with streets generally terminating in other roads and streets. All private streets, sidewalks and trails shall be consistent with the typical road sections provided on Sheets 17 and 18 of the Concept Plan; provided the Owner reserves the right to apply for and obtain approval of any waivers permitted by the Zoning Ordinance or the FSM.

2. Street Trees. Street trees on the Property will be planted in accordance with County criteria or as modified by these Proffers, and the Owner shall utilize, to the maximum extent feasible, trees that develop an overhead leaf canopy along the streets.

3. Private Streets. As modified by these Proffers, all private streets developed on the Property shall be owned and maintained by the Owners Association with appropriate covenants, restrictions and assessments. Private streets shall be subject to County review and approval at the time of applicable subdivision and site plan approvals, and shall be designed and constructed in accordance with the standards of the FSM applicable at the time such private streets are submitted to the County for approval. Private streets shall be designed to be comparable in scale to buildings to which they relate so that they contribute to the sense of a well designed village or neighborhood.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 31

4. Streetscape Plan. The Owner shall submit a streetscape plan for each land bay with the initial site plan submission in each respective land bay. The streetscape plans will conform with County requirements, but shall include (i) all landscape buffer plans for all buffer areas and (ii) deciduous tree plantings (2 1/2" - 3.0" caliper) at an average of forty-four (44) feet on center where on-street parking is provided and thirty-five (35) feet on center where on-street parking is not provided. These trees may be clustered where appropriate. Landscaping along the public streets shall be provided at the time each lot along the street is developed and may be supplemented with landscaping in addition to what is required by the Zoning Ordinance, at the Owner's option.

5. Landscaping. Individual building and parking areas on the Property shall be landscaped in a manner that is coordinated, as to plant material, with the streetscape plan along the public streets. The landscaping within the parking areas will consist, primarily, of trees which provide shade or are capable of providing shade at maturity.

6. On-Street Parking. The Owner may provide some of the off-street parking spaces required by the Zoning Ordinance as on-street parking spaces within 400 feet of the subject principal use as permitted by the Zoning Ordinance. All on-street parking spaces shall be provided in accordance with the Zoning Ordinance and applicable VDOT and County standards.

7. Block Sizes. Any block longer than six hundred (600) feet shall contain a mid-block break, such as, without limitation, a plaza, pocket park, tot lot, village green, flower garden, eating/picnic area, seating area, substantial hotel entrance plaza, or comparable passive use.

K. Lighting.

Lighting on the Property shall be designed and constructed to minimize light trespass, specifically:

1. Spillover light onto adjacent properties shall not exceed one quarter foot-candle.
2. All exterior light fixtures shall be "full cut-off outdoor lighting fixtures" as defined by the Illuminating Engineering Society of North America (IESNA). Light shall be directed inward and downward toward the interior of the Property, away from public streets (except street lights) and the nearby residential properties.
3. Except for street and parking lot lights installed in accordance with applicable provisions of the FSM, the maximum height of any freestanding exterior lighting fixtures shall be 18 feet. Height shall be measured from the ground surface to the bottom of the lighting fixture.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 32

L. Specific Land Bay Design Obligations.

1. Building Setbacks. Except as otherwise specifically indicated in these Proffers, buildings shall be located with a maximum front yard set back of twenty-five (25) feet from the adjacent road, as measured from the front of the curb. This setback requirement shall not apply where buildings front along sidewalk cafes, outdoor plazas, courtyards, terraces, hotel entrances/plazas and other pedestrian-oriented civic or open space.

Buildings fronting on Route 28 shall be set back a minimum of fifty (50) feet and a maximum of one hundred and fifty (150) feet from the edge of the Route 28 right-of-way line. Surface parking located between Route 28 or Pacific Boulevard and any buildings located adjacent to Route 28 or Pacific Boulevard, respectively, shall be limited to no more than two (2) travel aisles and two (2) rows of parking. Such surface parking shall be screened from Route 28 and Pacific Boulevard with landscaping and a berm comparable in size and quality to the Typical Pacific Boulevard Section identified on Sheet 18 of the Concept Plan.

2. Residential Open Space Amenities. Each building containing residential uses shall be located within 300 feet of an open space area at least 2,500 square feet in size. The distance shall be measured from the point on the building closest to such open space area. Open space areas may include tot lots, pocket parks, seating areas, pathways and similar passive recreational amenities.

3. Residential Uses in Land Bay F. Any residential uses located in Land Bay F shall only be located within two hundred and fifty (250) feet of the Road 8 frontage of Land Bay F.

4. Retail Sales Establishments in Land Bays West of Pacific Boulevard. Retail sales establishments located within multi-story office buildings that front on Pacific Boulevard in land bays west of Pacific Boulevard shall be oriented to the west and not toward Pacific Boulevard. No retail sales establishments shall be oriented toward Route 28.

5. No Freestanding Non-Hotel Commercial Uses in Land Bay Q or Land Bay N. There shall be no freestanding non-hotel commercial uses in Land Bay Q or Land Bay N.

6. Screening of Interchange. The Property shall be screened from the Route 28/Nokes Boulevard Interchange with landscaping and a berm along the perimeter of the interchange, a minimum of 2.5 feet in height and comparable in size and quality to the Typical Pacific Boulevard Section identified on Sheet 18 of the Concept Plan.

7. Terminus of Road 8 and Road 9. At full build-out of the Property, buildings shall be constructed opposite the southern terminus of Road 8 (in Land Bay H) and the northern terminus of Road 9 (in Land Bay E) as illustrated on Sheet 30 of the Concept Plan.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 33

VI. EMERGENCY SERVICES

A. Fire and Rescue Site.

If within two (2) years of the approval of this rezoning application ZMAP 2008-0021, the County awards construction of a fire and rescue and/or sheriff substation facility on the Property pursuant to the pending Public-Private Education and Infrastructure Act process for such facility [DO WE HAVE A SPECIFIC REFERENCE NUMBER?], then within sixty (60) days of the date such award is made, the Owner shall dedicate and convey to the Board of Supervisors a minimum of five (5) buildable (i.e., non-floodplain, non-wetlands, non-very steep slopes) acres located in Land Bay N, as identified on Sheets 9 and 10 of the Concept Plan as "Public Use Site," to be used for a County fire and rescue and/or sheriff substation facility. In the event such award is made within two (2) years of the approval of this rezoning application, the Owner shall (i) permit construction of a temporary access road across Land Bay N to such five-acre site until such time as access is available from Pacific Boulevard, (ii) construct street access and sidewalks to the site, and (iii) extend sewer, water, telephone, natural gas and electric service to the perimeter of the site, all concurrent with the Owner's own development activities on the portion of the Property abutting the site. The Owner shall not use such five (5) acre site for staging, dumping or similar activities prior to dedication of the site to the County pursuant to this Proffer. The site plan for any fire and rescue and/or sheriff substation on such five (5) acre site shall be provided for comment to the Design Review Committee identified in Proffer V.A. prior to final approval by the County.

B. Owner's Contribution.

At the time of the issuance of each zoning permit, the Owner shall make a one-time contribution of Ten Cents (\$0.10) per gross square foot of non-residential floor area and Two Hundred Fifty Dollars (\$250.00) per market rate residential dwelling unit, which shall be payable to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Such contribution shall be adjusted annually in accordance with changes to the CPI, beginning from a base year of 1988 (see Proffer VIII.C.). Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing fire and rescue services to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease, or be reduced by half if only one service is no longer provided by an incorporated volunteer company. The intent of these provisions is to support a volunteer fire and rescue system so long as it is the primary provider of fire and rescue services to the Property.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 34

C. Sprinkler Systems.

The Owner shall require all builders to provide sprinkler systems as required by applicable building codes for each use of the Property. The Owner shall install adequate infrastructure to ensure adequate water flow and pressure for such sprinkler systems.

D. Fire & Rescue Review of Site Plans.

In conjunction with the initial submittal of each site plan, the Applicant shall also submit such site plan to Fire, Rescue and Emergency Management Planning for review and approval to ensure that the site layout provides emergency vehicles and personnel adequate access and circulation throughout the Property.

E. Emergency Access.

All buildings and parking structures shall be designed to permit adequate access and circulation of emergency personnel and vehicles.

VII. OWNERS ASSOCIATION

The Owner shall establish an Owners Association for the entire Kincora community, prior to approval of the first record subdivision plat or site plan on the Property, whichever is first in time. Membership in the Owners Association shall be required of owners of all commercial lots and residential units on the Property. The Owners Association shall have among its duties trash collection and maintenance of each of the common area amenities specified herein, including, without limitation, private streets/alleys, private parking areas, stormwater management facilities, common areas and open space, trash removal, recycling services, snow removal, private sidewalks and trails and private roads, and all responsibilities and duties specifically assigned to the Owners Association in this Proffer Statement. Nothing herein shall preclude the Owner from incorporating the PD-IP Portion into the Owners Association and/or establishing separate, sub-associations for any individual sections or land bays within the Property, with such sub-associations assuming responsibility for maintenance and other responsibilities within those individual sections or land bays; provided such separate, sub-associations shall not relieve the owners of units in the applicable sections of the Property from membership in the Owners Association for the entire Kincora community. Owners Association documents for the Property shall be submitted for review and approval by the County prior to the approval of the first application for record subdivision plat or site plan, whichever is first in time.

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 35

VIII. MISCELLANEOUS

A. Existing Wells and Drainfields.

The Owner shall abandon all existing wells and septic systems located on the Property in accordance with applicable law.

B. Preliminary Soils Review.

The Owner shall prepare and submit a Preliminary Soils Review of the entire Property prior to submission to the County of the first preliminary plat, construction plans and profiles or site plan, whichever is first in time, for any section of the Property.

C. Annual Escalation.

Whenever these Proffers refer to the escalation of a proffered contribution or value in accordance with the Consumer Price Index (CPI-U) All Urban Consumers, Washington-DC-MD-VA-WV ("CPI"), unless otherwise expressly stated herein, such reference shall mean that the contribution or value shall escalate annually, beginning on January 1, 2010, and continuing each January 1 thereafter, by an amount equal to the percentage increase in the CPI over the prior year. If the U.S. Department of Labor shall ever cease publishing the CPI, the CPI, for purposes of these Proffers, shall be that index published by the Department of Labor or other U.S. government agency intended to reflect general increases in the cost of living for residents in the Washington, D.C. Standard Metropolitan Statistical Area.

D. Severability.

The Owner reserves the right to file and have accepted for review a proffered condition amendment, zoning concept plan amendment, rezoning, commission permit, zoning modification, special exception, variance or other zoning application for any portion of the Property, without having to obtain the joinder and/or consent of the owners of the other portions of the Property for which the zoning and land use approvals are not impacted by such application, provided that such application complies with the applicable submission requirements and Zoning Ordinance provisions.

E. Binding Effects.

The Owner warrants that the Owner owns all interests in the Property; that the Owner has full authority to bind the Property to these conditions; that the officer and/or manager of the Owner signing these Proffers is authorized to act on behalf of the Owner; and that these Proffers are entered into voluntarily; and that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms.

[SIGNATURES ON FOLLOWING PAGE]

KINCORA
(ZMAP 2008-0021)
PROFFER STATEMENT

October 5, 2009

Page 36

NA DULLES REAL ESTATE INVESTOR LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction, personally appeared _____, as _____ of NA Dulles Real Estate Investor LLC, who acknowledged that he executed the foregoing Proffers with the full power and authority to do so, as the act of such company.

IN WITNESS WHEREOF, I have affixed my hand and seal this ____ day of _____, 2009.

Notary Public

My Commission Expires: _____

EXHIBIT A

CONCEPT PLAN

October 2008
July 21, 2009
October 2, 2009

EXHIBIT B
**ZONING ORDINANCE ("ZO"), FACILITIES
STANDARDS MANUAL ("FSM") AND LAND
SUBDIVISION & DEVELOPMENT ORDINANCE
("LSDO")**
MODIFICATIONS

October 5, 2009

ZONING ORDINANCE MODIFICATIONS

- A. Section 4-1356(B)(1)--Front Yard.** The Revised 1993 Loudoun County Zoning Ordinance requires that the maximum front yard in the PD-MUB District not exceed 30 feet, though a maximum front yard of 50 feet may be permitted when a courtyard, plaza, terrace, or other common area a minimum of 300 square feet is provided adjacent to the front property line.

This maximum area will be provided for uses within all Land Bays with the exception of Land Bay N. Because of the constrained physical layout of this Land Bay, a maximum front yard of 150 feet adjacent to Pacific Boulevard may be necessary. Considering the isolated application of this modification request as well as the lower elevation and proposed landscaping within the buffer area between the buildings and Pacific Boulevard, the Applicant does not believe that it will detract from the intent of the PD-MUB District.

- B. Section 4-1356(B)(3)--Rear Yard.** The Revised 1993 Loudoun County Zoning Ordinance requires that the minimum rear yard in the PD-MUB District be at least 5 feet.

The Applicant requests that rear yards of 0 feet be permitted, which is necessitated by the grid network design of streets and blocks that places buildings closer together. Regardless of this requested modification, the Applicant will ensure that necessary fire provisions are incorporated into all designs of buildings which will be verified during site plan review.

- C. Section 4-1356(C)--Building Height.** The Revised 1993 Loudoun County Zoning Ordinance permits maximum building heights of 75 feet in the PD-MUB District.

In order to fulfill the recommendations of the Revised General Plan to provide prominent buildings adjacent to Route 28, the Applicant requests that a maximum building height of 160 feet be permitted for buildings located along Pacific Boulevard and Route 28 within

Land Bays B, F, J, and Q. This modification will permit the construction of taller buildings fronting Pacific Boulevard and Route 28, which implements a major goal of the keynote employment district.

- D. Section 4-1358(B)(2), Section 5-1413(C)(1)(a) & Section 5-1413(C)(2)(a)--Parking Lot Landscaping.** The Revised 1993 Loudoun County Zoning Ordinance requires that a 10-foot wide landscape strip be provided between parking lots and property boundaries.

The Applicant requests that this be modified to permit landscaping strips that will be a minimum of 6 feet, which is adequate to support vegetation growth and afford sufficient screening of parking areas. This reduced planting area will not prohibit or impede canopy growth that will buffer parking areas from property boundaries.

- E. Section 4-1358(C)--Tree Spacing.** The Revised 1993 Loudoun County Zoning Ordinance requires that street trees be provided adjacent to all areas dedicated for vehicle usage at a density of one tree per 25 linear feet.

The Applicant proposes that this requirement be modified to permit the calculation of required street trees to be calculated, and planted, 44 feet on-center where on-street parking is provided and 35 feet on-center where on-street parking is not provided. It is the past experience of the Applicant and its consultants that trees planted according to the requested spacing is sufficient to support healthy vegetative growth. The Zoning Ordinance requirement to provide street trees at a density of one tree per 25 linear feet is not conducive to an attractive, useful and healthy streetscape. The Applicant's modification, which has been approved on other similar projects in the County, takes into account streetscapes, pedestrian corridors and parking areas that are not contemplated with the requirement of the Zoning Ordinance.

- F. Section 4-1359(D)(2)--Private Streets.** The Revised 1993 Loudoun County Zoning Ordinance permits the provision of private streets if residential uses are located within 1,200 feet of principal business uses and that 75% of the structures are multi-story mixed use structures.

Each of the residential uses will be located within 1,200 feet of a principal business use structure. Greater than 50% of buildings will be multi-story mixed-use structures, though not the 75% required by this Section. The Applicant believes that the proposed development meets the intent of the PD-MUB District and that this development will be best served by private rather than public streets within the core of the development. An Owner's Association will be created prior to the initial record plat approval that will be responsible for maintenance of the private streets.

FACILITIES STANDARDS MANUAL ("FSM") MODIFICATIONS

- A. Section 4.310(C)--General Design Requirements.** The FSM requires that road jogs with center lines offsets of less than 225 feet shall not be allowed in public and Category A private roadways.

The Applicant proposes that private streets within village portion of Kincora will be constructed with centerline offsets of a minimum of 90 feet, which is necessary to permit the type of street grid network including streetscapes that will promote pedestrian safety along these internal roads.

- B. Section 4.310(G)--General Design Requirements.** The FSM requires that roadways intersecting with a public or Category A private roadway shall have a minimum length of 50 feet between curb returns and/or curb cuts.

The Applicant proposes that the village portion of Kincora will be constructed with private streets that will have a minimum of 0' between curb returns and/or curb cuts, which is necessary to permit the type of street network that will promote, and provide protection, for pedestrian activity along these internal private streets.

- C. Section 4.330(B)(2)--Private Roadway Standards.** The FSM requires that Category A roadways shall be constructed with cross section easements that are a minimum of 6' behind the face of curb.

The Applicant proposes that the cross section easements for Category A roadways within the village portion of Kincora be permitted to be constructed with cross sections that will be a minimum of 0.5' feet behind the face of curb, which is necessary to permit the type of street network and design necessary to promote pedestrian usability while still ensuring vehicular and pedestrian safety.

- D. Section 4.330(B)(3)--Private Roadway Standards.** The FSM requires that i) Category A1, A2, A3, A4 and A5 roadways be designed with a minimum curve radius of 110, 165, 338 and 478 feet, respectively; ii) Category A2, A3, A4 and A5 roadways be designed with speeds of 25, 30 and 35 miles per hour, respectively; and iii) Category A1, A2, A3, A4 and A5 roadways be designed with sight distances of 150, 200 and 275, feet respectively.

The FSM requires that i) Category A1, A2, A3, A4 and A5 roadways be designed with a minimum curve radius of 110, 165, 338 and 478 feet, respectively – the Applicant requests that these curve radii be reduced to 50 feet; that ii) Category A2, A3, A4 and A5 roadways be designed with speeds of 25, 30 and 35 miles per hour, respectively – the Applicant requests that these design speeds be reduced to 20 miles per hour; and that iii) Category A1, A2, A3, A4 and A5 roadways be designed with sight distances of 150, 200 and 275, feet respectively – the Applicant requests that these sight distance requirements be reduced to 100 feet. The private roads within the village portion of Kincora will provide adequate vehicular circulation and promote a safe and attractive pedestrian friendly environment.

LAND SUBDIVISION AND DEVELOPMENT ORDINANCE ("LSDO")

- A. Section 1245.01(2)--Lots and Building Area.** The LSDO requires that all lots shall front on an existing or recorded public street dedicated by the subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation.

In accordance with Section 4-1359(D)2 of the Revised 1993 Loudoun County Zoning Ordinance, which permits the construction of private streets within the PD-MUB District, the village portion of Kincora will be developed with lots that will front on private streets constructed in accordance with applicable requirements of the FSM unless modified according to the conditions stated in the Proffers for this rezoning. All of the private streets will be maintained by the Owner's Association that will be created prior to occupancy of any of the buildings within the development.

JUSTIFICATION

The 336.64 acre subject property (the "Property") is located in the southwest quadrant of the intersection of Route 7 and Route 28, with Broad Run forming the western boundary. The Property is strategically sited at the crossroads of major transportation thoroughfares, both existing and proposed. The location, size and environmental features of the Property provide a unique setting for an attractive mixed-use business community that will contribute significantly toward the County's economic development and tax base expansion goals.

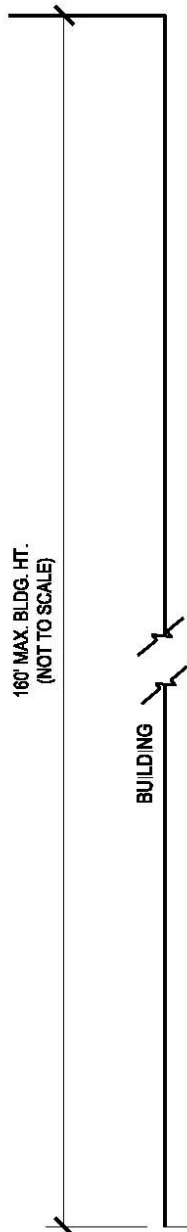
Approximately 160 acres of the Property are within the 100-year floodplain associated with Broad Run. This natural feature provides exciting recreational opportunities as well as challenging design constraints. The County's keynote employment objectives, the Property's environmental resources and the two key regional road links that cross the Property - Gloucester Parkway and Pacific Boulevard - all guided the vision for Kincora. Kincora has been designed with taller keynote office buildings along the Route 28 corridor, with a suburban-scale village center nestled between the office buildings and the expansive Broad Run floodplain. The village center will be attractive and walkable, with a variety of uses and amenities that create a distinct sense of place to support the keynote office buildings along Route 28.

To achieve this vision for Kincora, certain modifications of the requirements of the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance"), Facilities Standards Manual ("FSM") and Loudoun County Subdivision and Development Ordinance ("LSDO") are necessary. These modifications will permit development of Kincora as a vertically-integrated and pedestrian-friendly, mixed-use business community that would not be possible if the site were developed in strict conformance with these provisions of the Zoning Ordinance, FSM and LSDO.

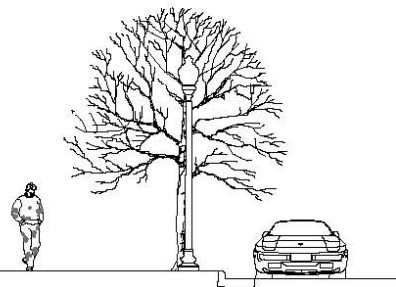
The requested Zoning Ordinance modifications pertain to an increase in front yard and a decrease in rear yard setbacks, an increase in building height, provision of private parking lot landscaping and tree spacing requirements. The designation of the Property for "keynote employment" in the Revised General Plan seeks to locate prominent office buildings of significant height adjacent to Route 28. To achieve this vision, it is necessary to modify the maximum and minimum front and rear yard setbacks, respectively, and increase the maximum building height of the PD-MUB District to permit such an increase in building height in the portion of the Property along Route 28. Neither modifying the front or rear yard setbacks or increasing the building height will adversely affect neighboring properties. These modifications will permit a development program that will enhance this segment of the Route 28 Corridor in furtherance of the goals of the Revised General Plan. Modifications of the parking lot landscaping and tree spacing requirements are necessary to permit the streetscape scheme described in the Proffers and depicted on the Concept Plan. These modifications will provide sufficient separation between parking areas and the space necessary to promote healthy growth of street trees and plantings.

Certain modifications of private street requirements of the FSM and the LSDO are necessary to permit the private road network in the village center portion of Kincora. These FSM and LSDO modifications will allow the street grid network necessary to support the type of compact, mixed-use business community development shown on the Concept Plan. The design of the private

street network for Kincora is create a pedestrian-friendly atmosphere with street trees, multiple curb cuts, shorter curve radii and slower speeds on the private streets. In addition, the Owner's Association will be responsible for maintenance of all private streets at Kincora.



	APPLICABLE LANDBAYS	NON-APPLICABLE LANDBAYS
A		X
B	X	
C		X
D		X
E		X
F	X	
G		X
H		X
J	X	
K		X
N		X
Q	X	



A

ZO Section 4-1356(C)

N.T.S.

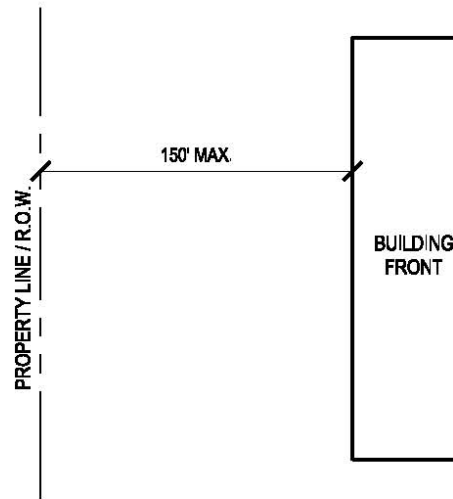
ZONING MODIFICATIONS

KINCORA VILLAGE

Loudoun County, Virginia

October 2, 2009

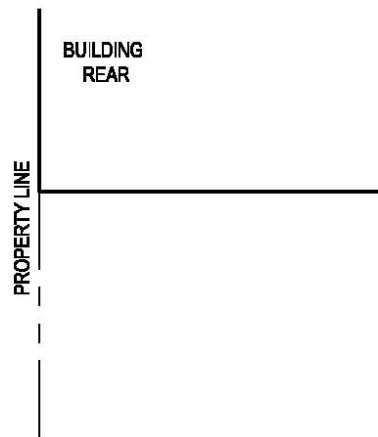




B

ZO Section 4-1356(B)1

N.T.S.



C

ZO Section 4-1356(B)3

N.T.S.

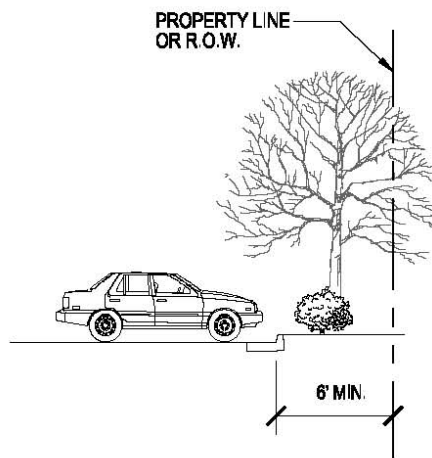
ZONING MODIFICATIONS

KINCORA VILLAGE

Loudoun County, Virginia

July 22, 2009

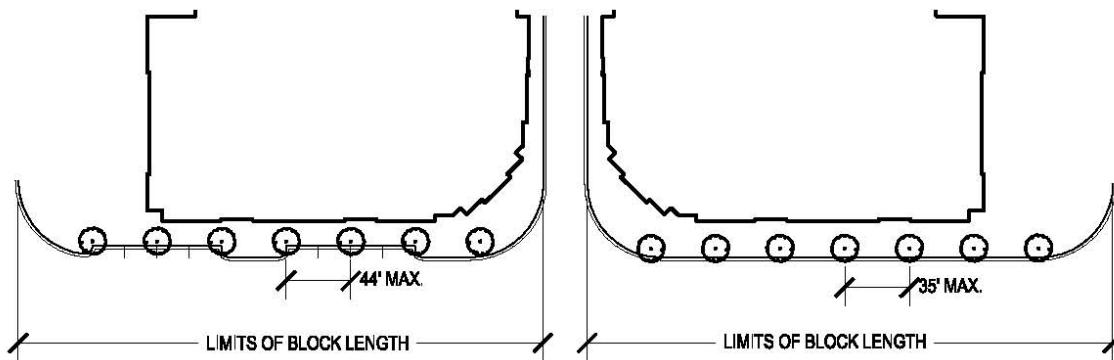




D

ZO Section 4-1358(B)2

N.T.S.



E

ZO Section 4-1358(C)

N.T.S.

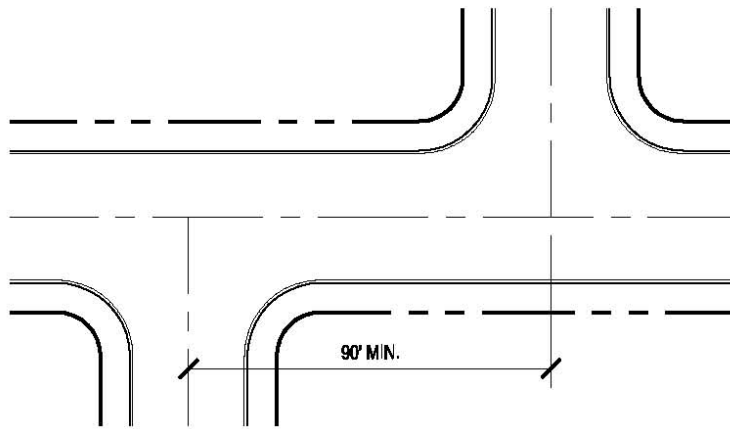
ZONING MODIFICATIONS

KINCORA VILLAGE

Loudoun County, Virginia

July 22, 2009

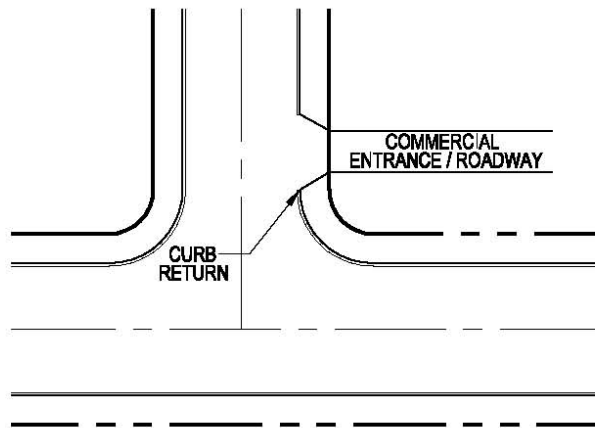




F

FSM Section 4.310(C)

N.T.S.



G

FSM Section 4.310(G)

N.T.S.

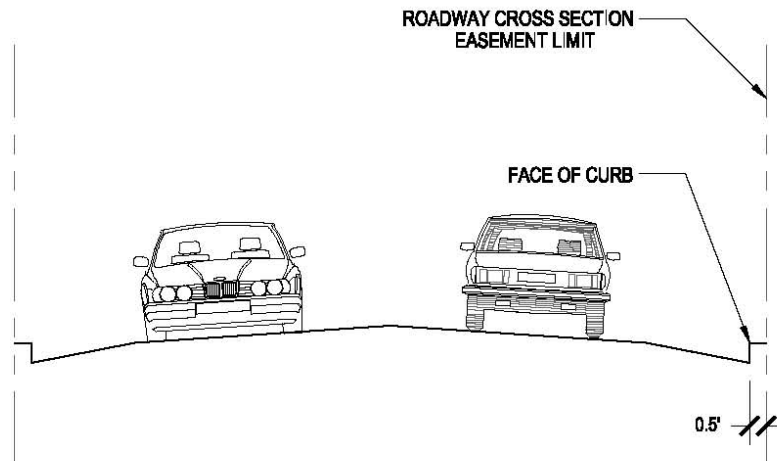
ZONING MODIFICATIONS

KINCORA VILLAGE

Loudoun County, Virginia

July 22, 2009

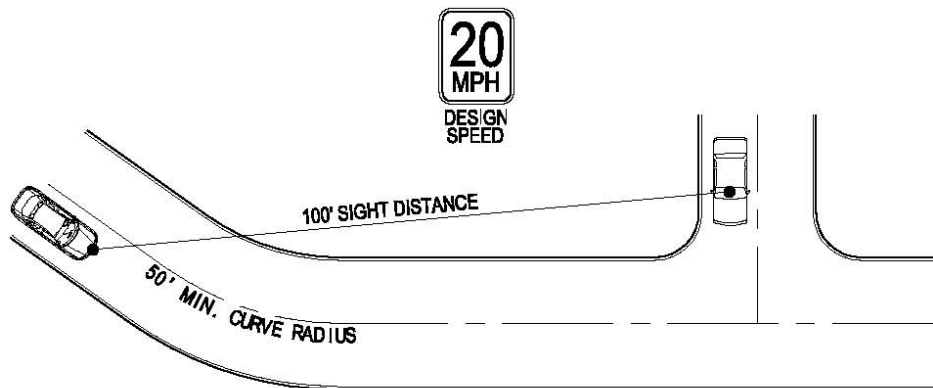




H

FSM Section 4.330(B)(2)

N.T.S.



I

FSM Section 4.330(B)(3)

N.T.S.

ZONING MODIFICATIONS

KINCORA VILLAGE

Loudoun County, Virginia

July 22, 2009



EXHIBIT C
AMENDED DEED OF OPEN SPACE EASEMENT

July 23, 2009

Document prepared by
and after recording return to:

DRAFT: July 23, 2009

Hunton & Williams LLP
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102
Attn: John C. McGranahan, Jr., Esquire

Tax Map Parcel: 042-49-0209

AMENDED DEED OF OPEN SPACE EASEMENT

THIS AMENDED DEED OF OPEN SPACE EASEMENT (this "Amendment"), dated as of _____, 2007, by and between **NA DULLES REAL ESTATE INVESTOR LLC**, a Delaware limited liability company (the "Owner"), as grantor and grantee for indexing purposes, and **BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA**, a body corporate and politic (the "Board"), as grantor and grantee for indexing purposes, recites and provides:

RECITALS

The Owner is the owner of that certain property in the Broad Run Election District of Loudoun County, Virginia described as Lot 2 of the Beco-Ray property (the "Property"), as such land is described in the deed recorded as Instrument #200509160104823 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia (the "Land Records").

A portion of the Property currently is encumbered by an open space easement running to the benefit of the Board (the "Existing Easement"), which easement is recorded in Deed Book 2314, at page 1589 among the Land Records.

The Owner and the Board desire and intend to amend the Existing Easement for the purpose of clarifying and confirming certain uses that are expressly permitted on the portion of the Property encumbered by the Existing Easement.

AMENDMENT:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Amendment of Existing Easement.** Numbered paragraphs 10 and 11 of the Existing Easement are expressly amended and restated in their entirety as follows:

10. The property **portion of the Property which is** subject to this easement (the "Open Space Property") shall not be further subdivided, **except in connection with and to the extent necessary for, the dedication of public street right-of-way for Gloucester Parkway and Pacific Boulevard along alignments consistent with the Countywide Transportation Plan.**

11. Notwithstanding any of the foregoing provisions, the Grantor expressly reserves to itself, its successors and assigns the right to:

- (a) Continue the agricultural, forestry and naturalistic uses of the Open Space Property.
- (b) Continue to hunt, fish or trap on the Open Space Property subject to relevant laws.
- (c) Improve, repair, restore, alter, remodel or replace the existing and the permitted structures with structures of similar size and purpose provided that the changes are compatible with the conservation purposes of the Open Space Property and all other provisions of this Easement.
- (d) Continue the use of the Open Space Property for all purposes not inconsistent with this Easement which use shall expressly include, **but not be limited to (i) the location, construction, maintenance and repair of existing and future utility lines and appurtenant facilities constructed pursuant to all necessary County approvals and related utility easements and shall include, (ii) use of the Open Space Property for wetlands mitigation, wetlands restoration and creation, stream restoration, wetlands and stream mitigation banking, and riparian reforestation purposes; (iii) construction of Gloucester Parkway and Pacific Boulevard along alignments consistent with the Countywide Transportation Plan; (iii) ballfields subject to prior approval by the Board or its designated agent; and (iv) the location, construction, maintenance and repair of stormwater management and/or best management practices facilities; (iv) location, construction, maintenance and use of trails.**

Except as specifically and expressly modified by this Amendment, the terms and conditions of the Existing Easements shall remain in full force and effect.

2. **Covenants Run with the Land.** This Amendment and the Existing Easement establish obligations which constitute real covenants which shall run with the land and be binding on the Owner and its administrators, executors, assigns, heirs and any other successors in title or interest.

3. **Counterparts.** This Amendment may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one and the same instrument binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

WITNESS the following signature and seal:

OWNER:

NA DULLES REAL ESTATE INVESTOR LLC, a
Delaware limited liability company

By: _____
Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me in the above jurisdiction this
_____ day of _____, 200__, by _____ as
_____ of NA Dulles Real Estate Investor LLC, a Delaware limited liability
company, on behalf of the company.

Notary Public

My Commission Expires: _____

[Signatures continue.]

WITNESS the following signature and seal:

BOARD:

**BOARD OF SUPERVISORS OF LOUDOUN
COUNTY, VIRGINIA**, a public body corporate
and politic

By: _____(SEAL)

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF LOUDOUN, to wit:

The foregoing instrument was acknowledged before me in the above jurisdiction this
____ day of _____, 200__ by _____,
of the Board of Supervisors of Loudoun County, Virginia, a public body corporate and politic, on
behalf of the Board.

Notary Public

My commission expires: _____

EXHIBIT D
DESIGN GUIDELINES

June 2009

EXHIBIT E

PD-MUB DISTRICT INCENTIVES

October 5, 2009

The PD-MUB District permits a maximum FAR of 0.5, but also includes various incentives that allow increases in the maximum permitted FAR up to 1.0. As depicted on the Concept Plan and committed to in the Proffers, this rezoning satisfies the requirements for most of the incentives. In accordance with Section 4-1359(C) of the Revised 1993 Zoning Ordinance, an increase in FAR for the Property above 0.5 is justified according to the following:

- 1) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if the district size is a minimum of 100 acres.**

The proposed PD-MUB District contains 336 acres, well in excess of the 100 acre minimum; therefore an increase in FAR of 0.1 is justified.

- 2) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if structured parking is provided to satisfy at least 50% of the required parking for the district. An increase of 0.2 FAR above the maximum permitted floor area ratio may be granted if 100% of the off-street parking is provided within structured parking. Such structured parking shall be designed in a manner that is integrated with nearby building architecture to minimize visual impact.**

Parking for Kincora will be phased with the development of the Property. At full build-out, at least 50% of the required parking necessary to support the uses will be provided through a combination of below and above grade parking structures. Above grade parking structures will be designed in a manner that is harmonious with the overall architectural scheme at Kincora. (See Proffer V.F.) Therefore, an increase in FAR of 0.1 is justified. This additional intensity will not be available to the Owner until a site plan is submitted confirming that 50% of the total required parking will be provided as structured parking.

- 3) The board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least 10% of the dwelling units provided are affordable to households earning up to 100% of the Washington Area Median Income (AMI), are located in vertically mixed buildings, and that covenants are**

recorded in favor of the County to maintain such affordability for a minimum period of 15 years.

The Owner is committed to providing 16.25% of the total number of dwelling units constructed within Kincora as affordable to persons earning up to 100% of the AMI. This will be accomplished through the provision of a combination of affordable dwelling units (available to persons earning up to 70% of the AMI) and other unmet housing needs programs (workforce dwelling units) (available to persons earning up to 100% of the AMI). Affordable dwelling units will be provided in accordance with the requirements of the Revised 1993 Loudoun County Zoning Ordinance. The balance of this commitment will be composed of workforce dwelling units. (See Proffers I.D. and I.E.). Therefore, an increase in FAR of 0.1 is justified. This additional intensity will not be available to the Owner until a site plan is submitted confirming that at least 10% of the total number of dwelling units will be made available to persons earning up to 100% of the AMI.

- 4) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if at least one of the following uses is provided. In addition, the floor area of such use will be excluded from the FAR calculations:**
- (a) Hotel, full-service to include a sit-down restaurant, meeting space, and at least two of the following in house services: exercise room, room service, or concierge service.**
 - (b) Adult day care facility.**
 - (c) Theater, indoor, limited to live performances.**

Kincora proposes to include at least one full-service hotel, as well as an indoor theater for the performing arts. (See Proffers I.B.3. and I.G.). Therefore, an increase in FAR of 0.1 is justified, and the floor area for such uses will be excluded from the FAR calculations for the Property. This additional intensity will not be available to the Owner until a site plan is submitted proposing the construction of either a full-service hotel or the performing arts center.

- 5) The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio if a local shuttle system or other public transportation improvement is provided by the applicant/landowner.**

The Owner proposes to provide a local shuttle service that will provide transportation services for employers within Kincora to destinations in the vicinity, including Dulles Town Center. (See Proffer III.L.). In addition, the Owner has proffered contributions for transit service and bus shelters to be provided along Pacific Boulevard, which will accommodate public bus service for the region once routes are established in the Route 28 corridor. (See Proffers III.I. and III.K.). Therefore, an increase in FAR of 0.1 is justified. This additional intensity will not be available to the Owner until a site plan is submitted with the requisite amount of development per these Proffers that requires the implementation of a shuttle service.

- 6) **The Board of Supervisors may grant an increase of 0.1 FAR above the maximum permitted floor area ratio when at least 2 contiguous lots that existed at the time of adoption of this Ordinance with each having frontage on an arterial road, submit a single zoning map amendment application to a PD-MUB district with the CDP showing no direct access onto an arterial road from any such lot.**

The Property has frontage along an arterial road (Route 28). The rezoning application proposes to remove all existing access points onto Route 28, and will provide access to Route 28 via the Route 28/Nokes Boulevard interchange that is currently being constructed on the Property. Therefore, an increase in FAR of 0.1 is justified.

Section 4-1359(D) of the Revised 1993 Loudoun County Zoning Ordinance permits additional incentives, which include:

- 1) **Areas within the FOD can be included when calculating the permissible FAR and residential density if a 25 foot natural buffer is maintained from the edge of the FOD.**

Floodplain associated with Broad Run is located on the Property. The Owner proposes to preserve and protect this area. The Applicant proposes natural surface trails, wetlands and stream mitigation and riparian reforestation activities in the floodplain, which are permitted uses in the FOD. The 50 foot management buffer adjacent to the FOD will be maintained in its natural state, with the exception of necessary utility crossings. Therefore, inclusion of the FOD in the FAR and residential density calculations is justified.

Kincora satisfies all the incentives described above. Therefore, the maximum FAR potential for the PD-MUB District at Kincora should be established at 1.0, inclusive of the FOD portion of the Property. Notwithstanding the maximum 1.0 FAR potential of the Kincora PD-MUB District, the Proffers and Concept Plan limit the development allowed on the Property to a maximum FAR of 0.39 without the exclusion of floodplain and 0.79 with the floodplain excluded (5,517,025 square feet). The Owner shall not be permitted to exceed the maximum density and intensity of use allowed in the Proffers and on the Concept Plan unless a future application for a Zoning Concept Plan Amendment ("ZCPA") to increase those proffered limitations is approved.

EXHIBIT F
BROAD RUN RESTORATION CONCEPT PLAN

June 2009
July 8, 2009

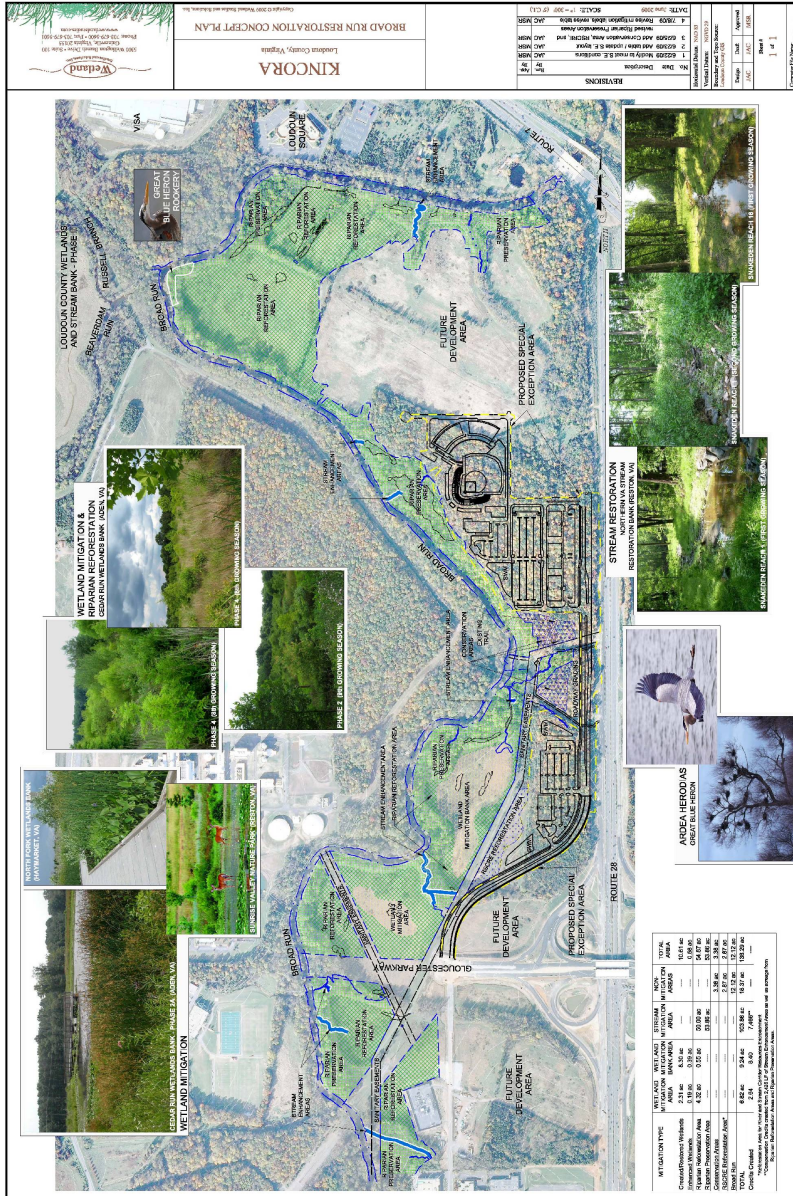




EXHIBIT G
CENTRAL PLAZA AND DESIGN ILLUSTRATIONS



 7700 Lee Park, Suite 100 Baltimore, MD 21208 www.urbaninc.com	 Seal	Client KinCORA, Inc. A Division of KinCORA, LLC 4000 Lee Park, Suite 100 Baltimore, MD 21208 7700 Lee Park, Suite 100 Baltimore, MD 21208	Architect / Designer David A. Smith No. 1000000000000000	Date 08/08/08	Project Name KINCORA VILLAGE CENTER	Project No. 08-008	Drawing Title TYPICAL ILLUSTRATIVE SITE FURNISHINGS	Scale AS NOTED	Drawing Number 19	Sheet 19 of 35 2P-1075.2
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